

Tasman Resource Management Plan

Plan Change 73: Omnibus 2 Amendments

Section 42A Evaluation Report

**Report prepared to fulfil the requirements of Section 42A
of the Resource Management Act 1991**

23 September 2021

Contents

Report Overview	3
1 Introduction	3
1.1 Purpose of the Report	3
1.2 Reporting Officer	3
1.3 Scale and Significance	4
1.4 Background and Overview	4
1.5 Consultation	6
1.6 Plan Change Process and Submissions	6
2 Submission Evaluations and Recommendations	8
2.1 Introduction	8
2.2 Late Submissions, Summary of Submissions and Scope	8
2.3 PC ref 73.16 — Indicative Roads and Reserves	10
2.4 PC ref 73.22 — Relocated Buildings	47
2.5 PC ref 73.25 — Rezone existing reserve land as Open Space or Recreation.....	51
2.6 PC ref 73.26 / 73.28 — Specific Area Provisions	54
3 Appendix 1: Schedule of Amendments on Proposed Plan Change	57
4 Appendix 2: Submissions	58
5 Appendix 3: Schedule of Amendments from Staff Report Recommendations	59
6 Appendix 4: Section 32AA Assessment	60
7 Appendix 5: Tasman District Council Development Engineer Assessment	65

Report Overview

This report addresses the following:

- **Part 1 – Introduction.** This section introduces and provides background to the Plan Change and briefly covers the submissions made to it.
- **Part 2 –Submission Evaluations and Recommendations.** This section discusses submission requests by topic and provides recommendations to the Hearings Panel, including reasons for accepting or rejecting a submission, and makes recommendations regarding any amendments to the notified plan text.

1 Introduction

1.1 Purpose of the Report

This officer report is prepared under Section 42A of the Resource Management Act 1991 (RMA) and discusses matters raised in submissions on proposed Plan Change 73: Omnibus 2 Amendments (PC73) and includes recommendations on those submissions for the Hearing Panel.

Section 32AA of the RMA requires further evaluation by the Hearing Panel of any changes made to the proposed Plan Change following consideration of the matters raised in the submissions. To the extent that changes are recommended in this report, further evaluation has been undertaken to support the completion of a report under Section 32AA by the Hearings Panel. The Section 32AA assessment is included as Appendix 4 to this report.

Under Clause 10 of the First Schedule of the RMA Council is required to give reasons for its decisions on the Plan Change. This report is also written to assist the Hearing Panel with drafting reasons for the decision.

1.2 Reporting Officer

This report has been prepared by myself, Reuben Peterson, consultant planner, working for Tasman District Council (Council). I am the reporting officer for this proposed Plan Change. I have been responsible for the preparation of PC73 through the preparation, consultation and notification stages. I have been assisted in this by various Council administration staff in the policy team and working under the direction of various policy planners in that same team.

I have a Bachelor of Resource Studies (Hons) from Lincoln University and am a full member of the New Zealand Planning Institute. I have worked in the resource management planning field for the last 18 years, both for local authorities and in my current role with WSP. I confirm that I have read the 'Code of Conduct' for expert witnesses contained in the Environment Court Practice Note 2014 and that this report and my appearance at the hearing will be carried out in accordance with that Code of Conduct.

Advice on various aspects of the development of the PC73 provisions has been received from Council staff. This has included Dugald Ley – Team Leader Development Engineering; Beryl Wilkes – Senior Horticultural Officer; Lynne Hall – Horticultural Officer – Motueka & Golden Bay; Katrina Lee – Team Leader – Land Use Consents; Paul Gibson – Senior Consent Planner – Land Use; and, Mike van Enter – Senior Transportation Engineer.

Due to the nature of the submissions and the matters to be considered at the hearing, the following staff will attend the hearing: Dugald Ley – Team Leader Development Engineering, and Rosalind Squires – Consultant Planner for the Council reserves team.

1.3 Scale and Significance

This report has been prepared with consideration of the scale and significance of the amendments requested in PC73.

The Section 32 report for this proposed Plan Change was developed to a level of detail that corresponds to the scale and significance of the environmental, economic, social and cultural effects that are anticipated from the implementation of the proposal.

This Section 42A report follows the same approach and covers each relevant submission point in a degree of detail appropriate to the scale and significance of the effects anticipated. This includes those effects on both the submitter themselves (typically as a landowner) and the wider environmental, economic, social and cultural effects as are relevant to the particular proposed change and submission point.

1.4 Background and Overview

Council has an internal process of identifying and recording provisions within the Tasman Resource Management Plan (TRMP) which require amendment. Typically, these are minor corrections to rules, zones or mapped items that are out of date, require improvement to their function or interpretation, or have errors in the current wording. Other provisions may not be working as intended or have resulted in a gap in the regulatory framework of the plan. Where these items are beyond the scope of a cl20A¹ amendment but are not of sufficient complexity to require a stand-alone plan change process, the changes are collated together into a single plan change process known as an Omnibus Plan change. Simply, it is a plan change process that contains multiple proposed changes to a variety of provisions within the TRMP.

The first omnibus plan change was notified on 14 July 2018 with a hearing on 19 November 2019 and decisions notified on 15 December 2018. This then became operative on 15 June 2019.

Following the first omnibus plan change, this current plan change process (PC73) was undertaken to include a further tranche of proposed changes.

Plan Change 73 includes 31 separate items which cover a wide range of topics. In summary, the proposed provisions involve the following changes:

- Minor amendments to correct errors or anomalies
- Simple adjustments to improve clarity of interpretation or implementation
- Removes redundant items where these are no longer required
- Changes rules which result in different permitted activity allowances for various activities
- Updates various zones
- Removes unnecessary rules
- Extends rules where these are inconsistently applied across the district
- Adjusts locations of some mapped Plan items
- Changes site specific rules that are now redundant

¹ Resource Management Act 1991, Schedule 1, Preparation, change, and review of policy statements and plans, clause 20A 'Correction of operative policy statement or plan'.

The full list of changes is set out in the table below. As can be seen, the majority of the proposed changes are entirely independent of each other and are spread throughout separate chapters of the TRMP. The proposed changes include both plan rules and mapping elements. Full details of the proposed changes can be found in the Schedule of Amendments document and the associated Section 32 Assessment².

Table 1: Proposed Plan Change 73: Omnibus 2 Amendments - Content

Plan Change Ref.	Action	Title
73.1	Clarify	Extent of activities excluded from the Residential Zone
73.2	Rectify	Inconsistent setbacks in the Golden Edge Industrial Zone
73.3	Clarify	Setback rule provisions for accessory buildings, including carports, in the Residential Zone
73.4	Update	Protected Tree Schedule – Additions, removals and edits
73.5	Rectify	Omission of a pole height rule in the Mixed Business Zone
73.6	Rectify	Inconsistency between Fire Ban and Fire Sensitive Area restrictions
73.7	Rectify	Inconsistency of various terms used for a road boundary
73.8	Clarify	Sleepout provisions in Rural 3 Zone
73.9	Remove	Redundant Road Area and resultant rezoning
73.10	Clarify	Co-operative living rule status
73.11	Clarify	Richmond Intensive Development Area (RIDA) rules
73.12	Clarify	Building extension provisions in the Coastal Environment Area (Height)
73.13	Modify	Building extensions in the Coastal Environment Area
73.14	Modify	Remediation of relocated building sites in the Coastal Risk Area
73.15	Modify	Exemptions to height and daylight controls for solar panels
73.16	Modify	Protection of indicative road and reserves, and updating positioning and existence
73.17	Modify	Deferred zone rules to enable automatic removal of indicative roads, reserves and walkways once vested
73.18	Modify	Automatic lifting of Fire Ban and Fire Sensitive Area deferral
73.19	Modify / New	Permitted activity rule for accessory structures in the Tourist Services, Recreation and Open Space Zones and the Coastal Environment Area
73.20	New	Signage in Recreation, Open Space and Conservation Zones as a permitted activity – specific rule
73.21	New	Permitted activity rule for activities included in the Reserve Management Plans in Open Space and Recreation Zones
73.22	Modify	Relocated buildings as a permitted activity
73.23	Remove	Remove rule requiring rainwater collection systems for toilet flushing in Mapua and Ruby Bay.
73.24	Modify	Rezone existing reserve land as Open Space or Recreation
73.25	Modify	Rezone 397 Lower Queen St and Mapua Waterfront Park
73.26	Modify	Site specific provisions - Little Kaiteriteri (Talisman Heights)
73.27	Modify	Site specific provisions - 32 Broadsea Ave, Ruby Bay
73.28	Modify	Site specific provisions - Golden Hills Rd, Waimea West
73.29	Modify	Site specific provisions - Milnthorpe Residential Zone
73.30	Modify	Site specific provisions - Closed Rural 2 Zone Pupu Springs Road
73.31	Modify	Site specific provisions - 580 Lower Queen Street

² The Schedule of Amendments and the Section 32 are available from Council, and on Council's website.

1.5 Consultation

Consultation on PC73 has included two main phases. These are:

- Pre-notification consultation, including plan change draft material
- Schedule 1 consultation as part of the PC73 preparation

Pre-notification Consultation

This phase primarily consisted of targeted engagement with those identified as being potentially directly affected by any individual change proposed. This has been carried out through letters and relevant information, including maps, being distributed. Follow up correspondence and discussions were then held with various parties when these were requested. Included in this consultation was circulation of draft PC73 text where this was relevant. The Section 32 report outlines specific consultation actions in more detail within the evaluation section of each proposed PC73 item.

Workshops have also been held with the TDC Councillors to discuss the changes proposed and refine some of the possible options for the changes.

Schedule 1 Consultation

Council has undertaken consultation under Sch 1, clause 3 of the RMA. This includes consulting with the Minister of the Environment and sending the draft PC73 material to the iwi of Te Tau Ihu on 10 September 2020. No advice was received from iwi or the Ministry of the Environment in relation to the matters within PC73.

General advice of the proposed Plan Change has also been included within TDC's fortnightly publication 'Newsline'.

Consultation has also continued on an informal prehearing basis with some submitters, when possible changes to items of relevance to their submission have been explored.

The results of these consultation actions have assisted with the development and confirmation of the changes proposed through this proposed Plan Change.

All consultation and notification requirements of Schedule 1 of the RMA have been met through this process.

1.6 Plan Change Process and Submissions

On 5 November 2020 the Strategy and Policy Committee resolved that PC 73 be notified. The proposed wording of the plan change is provided in Appendix 1 of this report (under separate cover).

On 19 December 2020, PC 73 was publicly notified. The period for making submissions closed on 9 February 2021. Twenty-three submissions were received.

The summary of decisions sought was publicly notified on 27 March 2021 with the further submission period closing on 14 April 2021. Further submissions were received from three original submitters and two new parties. A copy of the submissions and further submissions can be found in Appendix 2 (under separate cover). Table 2 provides the names of the submitters and further submitters.

Part 2 of this report discusses the submissions and further submissions and includes recommendations regarding the decisions sought.

A copy of the changes recommended in this report can be found in Appendix 3 (attached to this report).

Table 2: Submission and Further Submission Points

Submitter Number	Submitter Name	Report Ref	Further Submitter Number	Further Submitter Name	Report Ref
4196	Te Ngahere Koura Ltd, DRB Trust (David & Nadine Bott) Kelso Building Ltd	2.3.2	n/a		
872	Neighland Nominees Ltd	2.3.3	FC73.3353.3	Port Tarakohe Ltd	2.3.3
3353	Port Tarakohe Ltd	2.3.4	FC73.3353.4	Port Tarakohe Ltd	2.3.4
4190	Matenga West Ltd per Joan Butts	2.3.5	FC73.3353.1	Port Tarakohe Ltd	2.3.5
			FC73.3353.2	Port Tarakohe Ltd	2.3.5
4195	Talley's Ltd ¹	n/a - withdrawn	FC73.3353.5	Port Tarakohe Ltd	n/a – initial submission withdrawn
4193	Rabbitts, Rachele	2.3.6	n/a		
4203	McKay, Jason & Jo-Anna ²	2.3.7	n/a		
1046	Johnston, Alexander D	2.3.8	FC73.4184.1	Batton Developments Ltd	2.3.8
			FC73.3417.2	Paton Rise Ltd	2.3.8
4184	Batton Developments Ltd (N & A Cardiff)	2.3.9	FC73.3417.1	Paton Rise Ltd	2.3.9
3428	Westbrooke, Joanne	2.3.10	n/a		
4183	Anderson, Nathan & Nicola	2.3.11	n/a		
4185	Black, Peter & Adrienne	2.3.12	n/a		
4187	Briggs, Ann & David	2.3.13	n/a		
2886	Mapua & Districts Community Association ³	2.3.14	n/a		
4186	Bone, Haydn	2.3.15	n/a		
923	Beaches and Bays (Kaiteriteri) Ltd	2.3.16 2.5.2 2.6.1	n/a		
3757	ASJ Property per Jason Inch	2.3.17	n/a		
4188	D T King & Co Ltd per Paul Balneaves	2.3.18	FC73.4192.1	McLean, Allan	2.3.18
4192	McLean, Allan	2.3.19	n/a		
4189	House Movers Section of NZ Heavy haulage Assn Inc	2.4.1	n/a		

Submitter Number	Submitter Name	Report Ref	Further Submitter Number	Further Submitter Name	Report Ref
783	Windle, Philip and Rose	2.5.1	n/a		
4191	McCliskie, Neil & Sue	2.6.2	FC73.4204.1	Marr, Jeff and Sophie	2.6.2
4197	Walker, Colin ⁴	n/a - Withdrawn	n/a		

1 – Submission 4195 withdrawn on 6 Sept 2021

2 – Submission 4203 received late on 17 March 2021

3 – Submission 2886 received late on 24 February 2021

4 – Submission 4197 withdrawn on 18 June 2021

2 Submission Evaluations and Recommendations

2.1 Introduction

This section divides the issues raised in the submissions into separate topics and then discusses the matters raised in each topic and provides recommendations to the Hearing Panel. These recommendations include the response to the submission and may also identify recommended changes to the proposed Plan Change provisions that were notified. Reasons for the response and any recommended changes will be given along with an assessment of those changes in accordance with RMA s32AA. This is a legal process. If a submission requests an action that was not subject to formal notification, then it may be considered to be ‘out of scope’ or not ‘on’ the plan change. If this is the case, the reasons for this determination will also be set out in this report. Scope is discussed further in section 2.2.3 below.

The topics under which the submissions and further submissions are grouped are set out below. Subject to decisions being made on the recommended changes set out below, I recommend the proposed Plan Change is approved. The topic groupings below are:

- 2.3: Indicative roads and reserves
- 2.4: Relocated buildings
- 2.5: Rezone existing reserve land as Open Space or Recreation
- 2.6: Specific area provisions

2.2 Late Submissions, Summary of Submissions and Scope

2.2.1 Late Submissions

Two submissions were received after the submission closing date of 9 February 2021. Decisions on these late submissions will be sought at the start of the hearing, i.e., submissions 2886 (Mapua & Districts Community Association – 24 February 2021) and 4203 (McKay, Jason & Jo-Anna – 17 March 2021).

RMA Section 37(1)(b) gives the consent authority the ability to decide to “waive a failure to comply with a requirement under this Act...”. Section 37A sets out items that the consent authority must take into account on making this decision.

These matters to take into account under RMA s37A (1) are:

- a) *The interests of any person who, in its opinion, may be directly affected by the extension or waiver.*

In this case, no person is considered to be affected by the waiver of the time limit applying to these submissions as both were included within the summary of submission document which was notified on 27 March 2021 allowing further submissions to be made.

- b) *The interests of the community in achieving adequate assessment of the effects of a proposal, policy statement or plan.*

Consideration of the submissions is in the interests of the community and ensures adequate assessment of the effects of the proposal. The submission from the Mapua & District Community Association is from this association as representatives of that community. Allowing this submission to be considered is in the interests of the community.

- c) *Its duty under section 21 to avoid unreasonable delay.*

There is no unreasonable delay created by this decision to include the two late submissions.

In accordance with RMA s37(1)(b), I recommend that the consent authority waive the requirement for the two submissions noted above to be received by Council on or before 9 February 2021. The submissions are therefore recommended to be accepted as being received on time and to form part of the decision making on PC73.

2.2.2 Summary of Submissions document

Two errors have been identified within the Summary of Submissions document that was notified for further submission purposes on 27 March 2021. These involve the following two submissions:

- 1) Submitter 3353: Port Tarakohe Limited – Submission point 3353.2

For Port Tarakohe Limited, the summary incorrectly stated the submitter sought the removal of a portion of indicative road where it connects with Abel Tasman Drive. This submission point seeks that the point where the current indicative road connects with Abel Tasman Drive is discussed with both Council and Talley's to resolve a final location. This error in the summary document was identified through further submissions. Discussions have since occurred between the parties as sought by the submission in relation to the indicative road. No further action is required in relation to this error.

- 2) Submitter 4203: Jason and Jo-Anna McKay – Submission point 4203.1

For Jason and Jo-Anna McKay, the summary incorrectly stated that the submitter supports the proposed removal of the indicative road where it passes through the submitter's property. PC 73 involves the removal of a portion of indicative road to the rear of the submitter's property. However, this is to be replaced with a road to the front of the property. The submitter opposes this new position of the road. The error is acknowledged and the submission as lodged will be considered and a recommendation made within this report. No further action is required in relation to this error.

2.2.3 Scope

There are a number of individual submissions, or sets of submissions, which will be considered as to whether they are 'on' PC73 and therefore if the changes they seek are within the plan change scope.

Council has recent court experience on this matter through *Mackenzie v Tasman District Council* [2018] NZHC 2304 [3 September 2018]. This was an appeal to an Environment Court decision regarding whether a submission was 'on' a Plan Change. Both the Environment Court (EC) and the High Court (HC) agreed with Council's original rejection of the submission on the basis that it was outside the scope of the plan change. The relevant plan change was PC 60 Rural Land use and Subdivision Policy Review.

The EC noted the key cases relating to submissions being 'on' a plan change are *Clearwater Resort Ltd v Christchurch City Council*³ and *Palmerston North City Council v Motor Machinists Ltd*⁴ (*Clearwater/Machinists*). These set out that a submission would be 'on' a plan change if it:

- (a) Addressed the extent to which the plan change would alter the pre-existing status quo; and,
- (b) Did not permit an appreciable amendment to a planning instrument without real opportunity for participation by those potentially affected.

Other cases referenced in the HC decision also raise other questions of relevance when determining if a submission is within scope. These questions and considerations include⁵:

- a) Whether the submission raises matters that should have been addressed in the s32 evaluation report.
- b) Whether the management regime in a plan for a particular resource is altered by the plan change. If not, then a submission seeking a new management regime for that resource is unlikely to be on the plan change.
- c) Following point b) above, submissions that seek to substantially alter or add to the relevant objective of the plan change are not likely to be considered on the plan change. However, a change in policy or method that achieves any relevant objective in a way that is not radically different from what could be contemplated as resulting from the notified plan change may be considered to be on the plan change.
- d) Whether there is a real risk that persons directly or potentially affected by the additional changes proposed in the submission have been denied an effective response to those in the plan change process. If so, then the process for further submission under clause 8 of schedule 1 to the Act does not avert that risk.

When required, the submissions below are considered as to whether they are 'on' the plan change and therefore within scope. The primary test will be the two limbs of *clearwater/machinists* noted above. Each submission where scope has been considered will include within the main recommendation a note for the hearing panel to also accept or reject the submission in terms of scope.

2.3 PC ref 73.16 — Indicative Roads and Reserves

2.3.1 Submission Requests

This topic includes submitter requests for amendments both supporting and opposing the proposed changes to introduce additional protection measures for indicative roads and reserves which were not already protected. Submissions were also made on the location or existence of existing indicative roads and reserves (and walkways). Some of these indicative roads and reserves had changes included in PC 73 (as notified) while others were unchanged. A number of further submissions were also made, and these are highlighted below.

³ *Clearwater Resort Ltd v Christchurch City Council* HC Christchurch AP 34/02, 14 March 2003

⁴ *Palmerston North City Council v Motor Machinists Ltd* [2-13] NZHC 1290, [2014] NZRMA 519

⁵ *Bluehaven Management Ltd v Rotorua District Council* [2016] NZEnvC 191

The majority of submissions and further submissions address indicative roads, reserves and walkways on a property-specific basis. Therefore, the submissions points will generally be discussed, and recommendations made, on an individual basis.

The requests are summarised as follows:

2.3.2 Submitter [4196]: Te Ngahere Koura Limited, DRB Trust (David and Nadine Bott), Kelso Building Limited

Submission point 4196.1, Oppose in part: The submitter opposes the suggested change associated with 17.1.3.1 (Building setback requirements from indicative roads).

Submitter's Reason: The proposed addition of the building setback rules increases Council's power which leads to a corresponding loss in landowner rights. This will increase the cost of developing land by increasing the cost of the resource consent process. It is unreasonable to those that have purchased under one set of rules, to develop under another set of rules. The location and route of an indicative road ought to be precisely determined prior to it being drawn on the District Plan, much like the location and route of unformed legal roads is known and fixed.

Submission point 4196.2, Oppose in part: Use this Plan Change to remove the indicative roads located on 93 Richmond Road (all references include all three titles).

Submitter's Reason: TDC has recognised in writing that these indicative roads cannot be constructed due to major land instability issues, environmental concerns and cultural heritage issues. A report provided (Geotech Assessment) clearly states that the majority of the Indicative Road cannot be constructed, and therefore that the future network is not contiguous, does not provide a link to anywhere and is therefore ineffective, unusable and pointless.

Reporting Officer Assessment and Reasons –

Submitter Te Ngahere Koura Limited, DRB Trust (David and Nadine Bott), Kelso Building Limited Submission Point 4196.1

Discussion

The submitter does not support the addition of the building setback rules in relation to indicative roads, in particular to those that occur on their land. As stated by the landowner:

1. This effectively extends the size of the area protected for the future road by restricting buildings within the corridor or within 10m of it.
2. This reduces the landowner's rights to use and enjoy the land within the indicative road corridor.
3. This will increase the cost of developing the land by increasing the cost of obtaining a resource consent.
4. The indicative road route should be precisely determined prior to it being drawn on the planning maps.
5. Increasing the size of the indicative road corridor to provide flexibility to TDC, rather than put in place a robust regulatory regime, undermines and disrespects the sanctity of private property rights.
6. The submission sets out a list of principles that should be used to govern the need for any indicative roads.

The figure below shows the existing indicative road network that crosses the submitter's property at 93 Richmond Road. The submitter is correct that the plan changes proposes to introduce a rule requiring a resource consent process if a building is to be built within, or within 10m of the indicative road route.



Figure 1: 93 Richmond Road - Existing indicative roads (red shading), property boundaries in blue outline

Indicative roads are primarily in place to ensure a transport connection is able to be achieved as subdivision and development progresses across various properties. It signals this on the planning maps and typically becomes a matter that Council and the developer discuss when subdivision consents are being prepared and lodged. The primary outcome desired is that a connection is achieved from point A to point B. In most cases, the route that the road follows in making that connection is of lesser importance.

In some cases, the locations of the indicative roads are reasonably certain in areas which are more actively growing and where roads have other related purposes such as for secondary flow paths, while in other areas the positions are much less certain. In common with all areas, the desire to achieve a connection remains the consistent driver. Also, in common with all areas is a need for some flexibility in the final position of the road as final design of a development inevitably requires some adjustment.

The operative TRMP approach to protecting these future routes includes requirements at the time of subdivision and a rule to restrict new buildings within, or within 10m of the indicative road. This building restriction rule includes 10m either side of the indicative road to enable the final position to move within this margin when the subdivision pattern is established. Primarily, the building restriction rule is to ensure that buildings are not constructed in the path of a future road as this may prevent the road being established or result in additional costs to move or demolish the building. This situation has occurred within the region.

This rule features in PC 73 as it currently applies in some parts of the region but not in others. The section 32 assessment recognised that, in cases where the final road location was uncertain, restrictions would be applied to land where a road may not ultimately be formed. This issue was highlighted in feedback received on a draft version of the plan change and reinforced in subsequent submissions such as this submission by Mr Bott.

The information provided through this submission has highlighted need to consider the extent of the application of this rule. In the majority of locations, where indicative roads exist, the development is progressing rapidly, and the road positions are reasonably well determined. These areas are consistent with the areas in which the building setback rule already applies and therefore applying the rule consistently remains the most appropriate method.

In other areas such as Pohara / Port Tarakohe / Ligar Bay, there is less certainty in the final positioning of the future roads. In this situation, and as noted by the submitter, it is not reasonable to restrict building placement to the mapped location of the indicative road as there is little certainty that this is where the road will eventually be built.

For this reason, the building setback rule is recommended to not apply to areas where there is a reasonable degree of uncertainty in the final placement of the road. This is primarily when the road position is likely to change due to topographical reasons rather than changes that may be driven by landowner or developer preferences. The area where this applies is the Pohara / Port Tarakohe / Ligar Bay region to the west of Falconer Road.

This submission point is recommended to be accepted. This submission point is within scope of PC73.

Submission Point 4196.2

The submitters second point requests the removal of all indicative roads from 93 Richmond Road as part of the PC73 process. This is based on supplied geotechnical information demonstrating the difficulties, and potentially impossibility, of constructing a road in this general location to form the connection required from Richmond/Bay Vista through to Falconer Road. The current indicative road network is shown on Figure 1.

In preparation for the recommendations in this Section 42a report, Council officers and myself have visited the site and corresponded with the submitter, Mr Bott. The site was visited on 16 September 2021.

Whether the submission is on PC73 and therefore within scope is an important matter. This submission point was carefully considered against the Clearwater/Machinists tests (see section 2.2.3).

PC73 has been clear throughout that it is only making changes to the location or existence of the position of specified indicative roads. This is reflected in responses to draft plan change consultation where it was highlighted that most indicative roads are not proposed to have their position changed. The section 32 notes that some changes would have more substantial effects than are being considered in PC73 and are more appropriately considered as part of a subdivision consent process or as part of a plan change with a wider scope.

This particular submission requests the removal of existing indicative roads on the submitter's property. These roads have not been shown at any point in the process as being proposed to be removed. Removal of this indicative road is not considered to pass either limb of the Clearwater/Machinists test for the following reasons:

- 1) The change sought would change the status quo position beyond that envisaged by PC73. There would be no alternative indicative route provided in the TRMP and therefore any future roading connection between Pohara and Port Tarakohe/Ligar Bay would not exist within Council planning documents. This level of change has not been considered or assessed in the Plan Change, or in the information or consultation supporting it.
- 2) This level of change in the provision of indicative roads in the area would have potential impacts on people who have not had real opportunity for participation. There would be other landowners impacted by possible alternative routes, landowners and businesses beyond Pohara who would not have a future alternative route indicated, and emergency services and Civil Defence in terms of future resilience.

As noted in the Section 32 report, to progress this matter further it would need to be considered as part of a Plan Change process with a wider scope.

This assessment does not consider the feasibility of achieving the link as shown and acknowledges the information that has been provided by the submitter and the previous correspondence between them and Council. The proposed changes in Schedule 16.3A and 16.3B assist with the potential to reposition this road during any subdivision consent process, until such a time as its existence on this property, and any possible alternative route, can be properly considered.

This submission point has been assessed as being partly out of scope of the PC73 due to the requested removal of the indicative roads from this property. The connections provided by these indicative roads are therefore recommended to be retained.

The position of these indicative roads within the property can, however, be considered within the scope of PC73 provided that the overall connections are still achieved and that there is no effect on other parties.

Discussion with the submitter has resulted in recommended changes to the indicative road alignment as shown in the figure below:

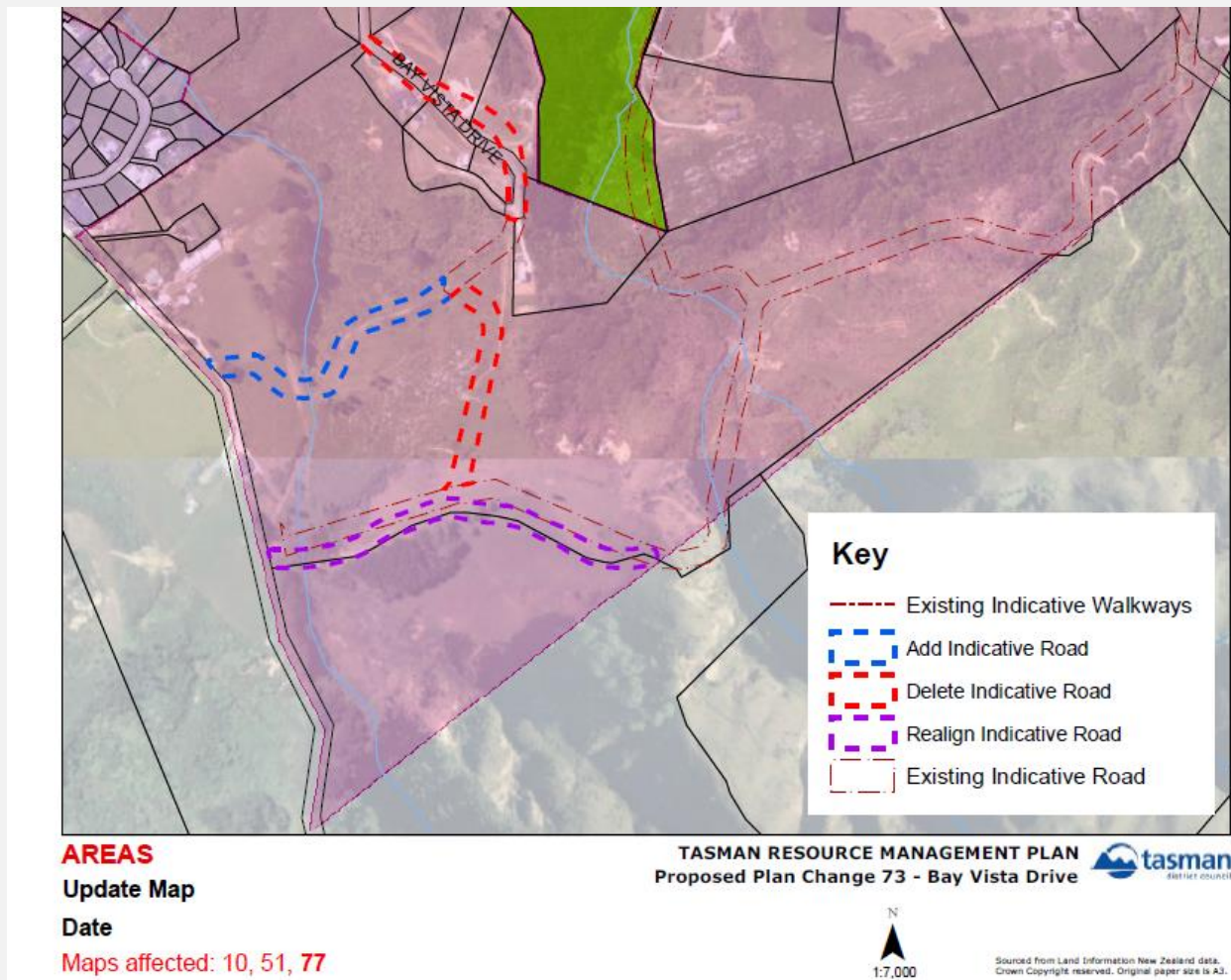


Figure 2: 93 Richmond Road, recommended indicative road changes

The northernmost deletion of the indicative road at Bay Vista Drive is part of the notified plan change. The lower portion of indicative road shown in red dashes is recommended to be removed as a suitable alternative alignment exists as shown in the blue dashes. This route follows a development pattern proposed by the landowner and is located on land suitable for road formation. The section that is recommended to be removed is steep and impracticable to form as noted in the Geotech report included

with the submission. This repositioning connects with the currently unformed legal road extended from Richmond Road. This change represents a practical way to form the desired road connections.

The purple dashes represent a realignment of the existing indicative road to follow the recently constructed vehicle access in this location.

Recommendation

Submission point 4196.1 – Accept

Submission point 4196.2 – Reject in part (due to not being within the scope of the plan change).

Amendments to PC73 relating to these submission points

Approve PC73 as amended in response to submission 4196 and set out in Appendix 3. This includes amendments to the building setback rules and the indicative road realignment.

2.3.3 Submitter [872]: Neighland Nominees Limited

Submission Point 872.1 — Oppose: Delete proposed provisions in 73.16 – Schedule 16.3A Assessment Criteria for Subdivision (42).

Submission Point 872.2 — Oppose: Delete proposed provisions in 73.16 – Schedule 16.3B Transport Conditions (e).

Submission Point 872.3 — Oppose: Delete proposed provisions in 73.16 – Chapter 17.

Submitter’s Reason: Oppose in its entirety as it is premature to indicate possible future roading patterns when TDC has refused to legalise the formed road between the corner of Abel Tasman Drive and Pohara Valley Road and the continuation of Abel Tasman Drive at Limestone Bay.

Submission Point 872.4 — Oppose in part: Add ‘Indicative Road’ over the Deeds Land between 75 Pohara Valley Road and 59, 65 and 71 Pohara Valley Road to connect with Pohara Valley Road.

Submitter’s Reason: Opposition to the indicative road through the ‘old cement works site’ unless this also extends through to Pohara Valley Road on the Deeds Land as referred to above.

Further Submission FC73.3353.3 – Port Tarakohe Limited – Oppose: The Deeds Land route leads to a redundant indicative road that should be deleted from the planning maps.

A second part of this further submission goes on to note support for the statements in submission points 872.1 – 872.3 in so far as agreeing that the proposed Plan Change section 73.16 is premature; that a feasible indicative roading system has not been identified; and, that the 40m wide corridor (consisting of a 20m wide indicative road and 10m building setback on either side) will penalise landowners by restricting development in areas that will never be used as a road.

Reporting Officer Assessment and Reasons –

Submitter Neighland Nominees Limited

Submission Point 872.1 – 872.4

Discussion

Submission points 872.1 – 872.3 oppose the portion of PC 73 titled 73.16 ‘Protection of indicative roads and reserves and updating positioning and existence’. The submitter considers this portion of the plan change regarding the possible future roading pattern to be premature when Council has not legalised

sections of the existing Abel Tasman Drive. The image in Figure 3 shows the portion of Abel Tasman Drive referred to by the submitter along the coastal margin and within the property boundaries.



Figure 3: Abel Tasman Drive – Showing the portion of Abel Tasman Drive within private property boundaries

I am aware that there has been correspondence between the Council and the submitter for many years regarding this issue. I also understand Council and the landowner (Port Taranaki Limited) have discussed this situation over this period. Consideration of the wider issue raised, being legalisation of sections of Abel Tasman Drive, cannot occur as part of this plan change process and is not an RMA matter. This plan change process is limited to refinements to protect the existing indicative road network, include the position of some indicative roads. I consider the two matters can occur independently of each other.

Submission Point 872.4 seeks to add 'Indicative Road' over the Deeds Land between 75 Pohara Valley Road and 59, 65 and 71 Pohara Valley Road to connect with Pohara Valley Road. This submitter goes on to oppose the indicative road through the 'Old Cement Works Site' unless it is extended to Pohara Valley Road. The section of indicative road concerned is shown in Figure 4 below as the curved black dashed line. The Deeds Land referred to by the submitter is at the lower (southern) end of the indicative road before it meets Pohara Valley Road. This is circled in red.



Figure 4: Section of indicative road relevant to submission point 872.4

The indicative road exists in the TRMP and no changes were proposed within this Plan Change. The Deeds Land noted by the submitter is land that is held in the deeds system that was the main way property ownership was recorded before the land titles system. I understand that, when the original indicative road was placed on the planning maps, an incorrect interpretation was made that this land was in fact a legal road and therefore the indicative road connected to that rather than all the way through to Pohara Valley Road.

Of relevance to this submission is the further submission **FC73.3353.3 – Port Tarakohe Limited** which opposes this extension as the existing indicative road is not seen by the submitter to be feasible in this location for topographical reasons. Also relevant is **Port Tarakohe Limited's original submission 3353** which sought that this indicative road be removed. Section 2.3.4 discusses Port Tarakohe Ltd's request and the recommendation is that their submission is accepted and the indicative road removed from the TRMP. The indicative road passes over significant cliffs in the former quarry area and is not feasible to form in this location. Importantly, it is also not required as another indicative road exists within Port Tarakohe Limited land which establishes the connection from Abel Tasman Drive to Falconer Road. Having two routes achieving this same connection is not necessary or desirable from a resource management perspective.

Submission point 872.4 is recommended to be rejected as the existing indicative road subject to this submission point is recommended to be removed (see recommendations to submission point 3353.3 under section 2.3.4 of this report) rendering the extension unnecessary.

No changes to the notified plan change are recommended in response to the submission points above.

Recommendation

Submission Points 872.1 – 872.3 - Reject

Submission Point 872.4 - Reject

Further Submission FC3353.3 – Accept

Amendments to PC73 relating to these submission points

Nil

2.3.4 Submitter [3353]: Port Tarakohe Ltd

Submission point 3353.1, 3353.2, 3353.3 and 3353.4 Oppose in part: Removal and repositioning of indicative roads and walkways are sought within the submitters land. Suggested changes are set out in the maps attached to the submission.

Submitter’s Reason: Amend indicative road locations to better reflect the actual position of the existing roads on the site and to remove one portion of existing indicative road due to site topography. The junction with Abel Tasman Drive also requires adjustment to cater for safe vehicle (truck and trailer) sightlines. The existing indicative walkway running north to south should be removed due to unsuitable site topography and health and safety issues with a walkway through a quarry and industrial area.

Further Submission FC73.3353.4 – Port Tarakohe Limited – Support: The further submission clarifies that the original submission point (3353.2) which seeks that the point where the current indicative road connects with Abel Tasman Drive is discussed with both Council and Talley’s to resolve a final location. The Summary of Submissions document stated that the submission sought the removal of this section of indicative road.

Submission point 3353.5 Oppose in part: Replace the proposed 10m building setback from the indicative roads with a 5m setback – proposed rule 17.4.3.1 (ka).

Submitter’s Reason: A 10m building setback on either side of a 20m indicative road renders large parts of scarce industrial land subject to a restricted discretionary activity consent process. This penalises landowners when the positioning of the indicative road is inaccurate.

Reporting Officer Assessment and Reasons –

Submitter Port Tarakohe Ltd

Submission Points 3353.1, 3353.2, 3353.3 and 3353.4

Discussion

The submitter notes that the position of the connection with Abel Tasman Drive should be amended, and that this should be in consultation with the neighbouring property owner. This is because the indicative road currently exits on their land and any repositioning would still need to incorporate a portion on that neighbouring property.

A. Scope:

Changes to the indicative roads and walkways on this property were not part of PC73 as notified. For this reason, determination as to whether the changes sought are ‘on the Plan Change’ is needed to define whether there is scope for these submission points to be considered. The Clearwater / Machinist test has been used to consider the scope of these submission points (see section 2.2.3 of this report).

Submission point 3353.1 – re-alignment of the indicative road through Tarakohe Gully as shown in green in Appendix 2 of the submission. This portion of indicative road already has alignment changes shown on

the southern portion. Any further re-alignment is within the scope of the plan change as the connections are maintained and no other party is affected by these changes.

Submission point 3353.2 – changes to the access point to Abel Tasman Drive. This change in alignment is where the indicative road meets Abel Tasman Drive. This change is within scope as the owner of the other property where the indicative road currently meets Abel Tasman Drive also submitted on the plan change requesting that the location be amended. This was submitter 4195 Talley's Ltd who has subsequently withdrawn their submission as they were satisfied with the outcome of discussions on the indicative road position. The new location of the indicative road access point proposed by the submitter is on the alignment of the current vehicle access to the site. Therefore, a connection is still achieved as is currently the case.

Submission point 3353.3 – removal of the western indicative road through the Port Tarakohe Ltd site. This change would result in the removal of one of two proposed future roading routes intended to connect the Pohara Valley area to the Port Tarakohe area. The status quo TRMP position is that an indicative route exists connecting Pohara Valley to Port Tarakohe and further to Ligar Bay. This change is within the scope of changes anticipated within PC73 and does not impact on the TRMP status quo position. A connection route is still available between Pohara Valley, Port Tarakohe and Ligar Bay via the Falconer Road link. The scope of PC73 is also not changed as the portion of indicative road sought to be deleted by submission does not currently connect all the way through to a current legal road.

The second test or scope is to consider if the change sought would result in an appreciable amendment to a planning instrument without real opportunity for participation by those potentially affected. The change sought by the submission points would not result in an appreciable amendment that would affect people who are not already involved in PC73 (i.e. the existing submitters). There is potential that the change sought could see additional traffic on the future road connection as there would no longer be a second potential exit to Pohara Valley Road. As noted above, this second connection does not connect to legal road and has been shown to by the submitter to be unfeasible to construct and it would not enable access to any other property. For these reasons, I consider it more probable that the link to Falconer Road would likely be the preferred future connection route. Therefore, the traffic volumes on this Falconer Road route would likely be similar even with the retention of the existing indicative road. I consider there is no appreciable amendment that requires the opportunity for participation by other parties.

Submission point 3353.4 – removal of indicative walkways on the property. PC73 involves changes to indicative roads in other parts of the district, therefore changes within the pre-existing status quo can occur within the scope of PC73. The connection option provided by the indicative walkway running north-south could be achieved within the alignment of the north-south indicative road. The east-west connection option could also still be achieved through the existing Falconer Road indicative road route. The desired connections are achievable on the alignment of the existing indicative road networks, therefore consideration of removal of indicative walkways on the submitter's property can be considered within the scope of PC73.

The decision sought by the submitter and deemed to be within scope above, does not result in an appreciable amendment to a planning instrument without real opportunity for participation by those potentially affected. The TRMP objective to facilitate the provisions of walkways and their desired connections can still be achieved through the existing indicative road network.

I recommend the submission points above are accepted as being within scope of PC73.



Figure 5: Submission Attachment 2

B. Discussion / Recommendations:

Submission point 3353.1 – re-alignment of the indicative road through Tarakohe Gully as shown in green in Attachment 2 of the submission. The changes proposed in the alignment mostly affect the land around the connection towards Falconer Road. The changes are minor and within the property boundaries of the submitter. The changes are to better align the indicative road with the existing road network and feasibility of forming a future connecting road. It is recommended that the changes are accepted. The revised map in Appendix 3 shows the revised indicative road position.

Submission point 3353.2 – changes to the access point to Abel Tasman Drive. Figure 6 below was presented in the further submission (FC73.3353.4) by Port Taranaki Limited, to clarify what was requested in their original submission. The position of this indicative road currently runs directly through the property shown as 1006 in Figure 6 below. This property is owned by Talley's Ltd (submitter 4195) who also submitted on this issue. Through discussions between Council, Talley's Ltd and Port Taranaki Ltd an agreed position of the indicative road where it meets Abel Tasman Drive has been determined. This follows the existing vehicle access to Port Taranaki Ltd land. Talley's Ltd have agreed with the change proposed and have withdrawn their submission on this basis.

The features of the change are that the indicative road starts near to the base of the cliffs and runs outwards for the standard 20m width of indicative roads. This incorporates approximately 5m of land with the northern end of the Talley's Ltd site. The final road design and width will be determined when this is eventually established in the future. The revised route of the indicative road is shown in Figure 6 below.

I recommend that this change is accepted, and the indicative road position be amended as shown in Appendix 3 of this s42a report.

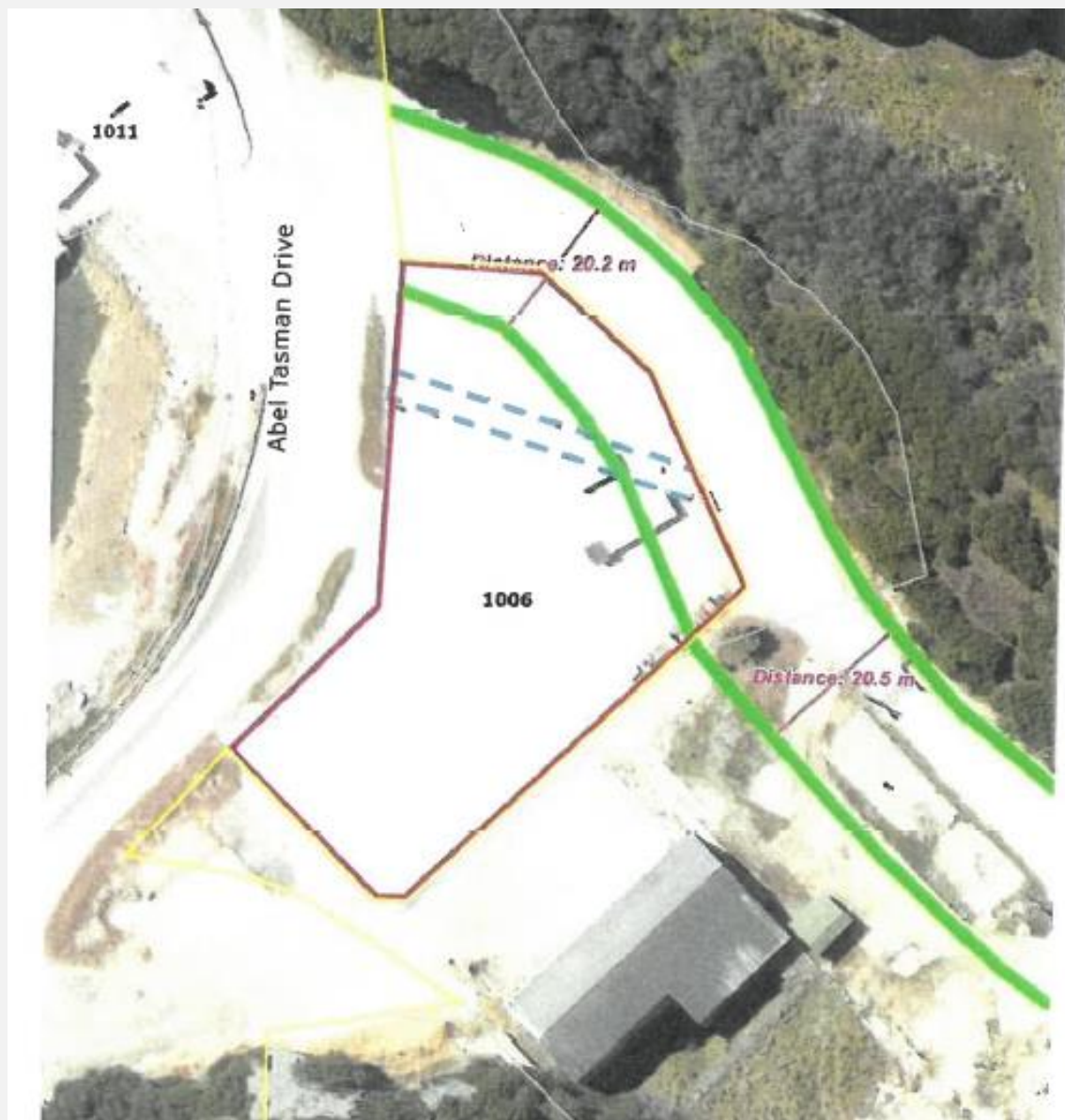


Figure 6: Further Submission Attachment 3

Submission point 3353.3 – delete the western indicative road through the Port Tarakohe Ltd site. Figure 6 above shows the portion of indicative road sought to be removed by the submitter. The removal of the indicative road has been considered by the Council’s Development Engineer, Dugald Ley, with his recommendations and reasons set out in Appendix 5. After visiting the site, Mr Ley considers that this change is a suitable outcome as it is not feasible to form the road and a connection serves little purpose for road infrastructure. The removal of this indicative road reflects the fact the road does not connect through to an existing legal road and has been shown to be unable to be constructed due to it terminating at a cliff at the boundary of the Port Tarakohe Limited land – see Figure 7 below. As discussed in the section regarding scope, there is an alternative indicative road available which ensures that the desired connections are still achieved.

I recommend that this change is accepted, and the indicative road in this location be deleted as shown in Appendix 3 of this s42a report.



Figure 7: Submission Attachment 4

Submission point 3353.4 – delete the indicative walkways on the property. The indicative walkways run north - south and east - west across the property. These are shown on Figure 5 above. Rosalind Squires – Council’s Consultant Planner for the reserves team has considered these walkways and supports their removal from the TRMP. The north-south connection is able to be achieved through the existing north - south indicative road alignment, while the east - west connection can be achieved on the indicative road alignment running from Falconer Road. This allows a walking connection to be achieved at the same time as the indicative road through a subdivision consent, or by agreement with the landowner at an earlier time. The submitter noted that the existing routes ran through an operational quarry and through an industrial area. A small portion of indicative walkway is recommended to be retained where this heads in an easterly direction towards Nyhane Drive West and the hills beyond.

I recommend that this change is accepted, and the indicative walkways be deleted as shown in Appendix 3 of this s42a report.

Submission Point 3353.5 – The submitter opposes the proposed 10m building setback rule and proposes that this is replaced with a 5m setback within the Light Industrial Zone. This is due to the uncertainty and expense of any resource consent that might be required and the restrictions this would place on scarce industrial land.

The 10m building setback rule is discussed in further detail in section 2.3.2 of this report as it has been raised by other submitters as well. A level of uncertainty exists in relation to the placement of indicative

roads in the Pohara / Port Tarakohe / Ligar Bar area, in particular to the west of Falconer Road. For this reason, I recommend that the 10m building setback requirement is not applied to the area to the west of Falconer Road but is retained as notified for the areas to the east. The area to the east of Falconer Road includes the Port Tarakohe Limited property. This reflects that the locations of the indicative roads have been refined in this PC73 process improving the level of certainty comparable to other parts of the district. Applying the 10m building setback gives protection to the road routes and allows their position to be refined when being developed without hinderance by any new buildings unless those have obtained resource consent to be within this setback area. Retaining the 10m setback is also consistent with the application of this rule in other areas with the same Light Industrial (or deferred Light Industrial) zoning.

I recommend that the proposed building restriction rule is unchanged from what was notified in relation to the submitter's property.

Recommendation

Submission Point 3353.1 – Accept

Submission Point 3353.2 – Accept

Further Submission FC73.3353.4 - Accept

Submission Point 3353.3 – Accept

Submission Point 3353.4 – Accept

Submission Points 3353.1, 3353.2, 3353.3 and 3353.4 – Accept as being within scope

Submission Point 3353.5 - Reject

Amendments to PC73 relating to these submission points

Approve PC 73 as amended in response to submission 3353 and set out in Appendix 3. This includes amendments to indicative roads and walkways.

2.3.5 Submitter [4190]: Matenga West Limited

Submission point 4190.1, Oppose in part: Indicative road around Lot 7 and 51 Falconer Road to be amended so it is on stable land as shown in Attachment 3 to the submission.

Submission point 4190.2, Oppose in part: Portions of indicative road in 45 and 49 Falconer Road land titles should be adjusted to be included entirely in the Lot 7 road title.

Further Submission FC73.3353.1 / 2 – Port Tarakohe Limited – Support: This road title has the potential to act as an alternative road from Ligar bay to Pohara Valley in an emergency situation.

Submitter's Reason: This road needs to be moved to the south to achieve a stable road and avoid the washed-out edge of the old Golden Bay Cement Works dump and the edge of the large tomo.

Reporting Officer Assessment and Reasons –

Submitter Matenga West Limited

Submission Point 4190.1 and 4190.2

Discussion

The submitter requests that the existing indicative road is repositioned so it is located within the boundaries of Lot 7 DP 18584, aside from the northern end where this would extend into the adjacent property (51 Falconer Road) to avoid an unstable area. The left-hand image below shows the location of

the indicative road sought by the submitter in the green outline (this is from Attachment 3 to their submission). The right-hand image shows the revised location of the indicative road as notified in purple. This follows the boundaries of lot 7 and therefore already achieves the outcome sought in submission point 4190.2.

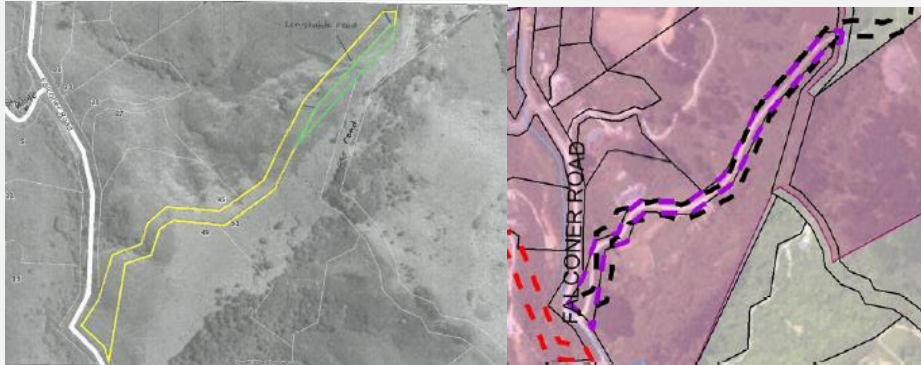


Figure 8: Left-hand image - Lot 7 highlighted in yellow, suggested repositioning in green
Right-hand image – Notified plan, black is existing Indicative road, purple is realigned indicative road.

Submission point 4190.1 regarding repositioning the indicative road into the green outlined area is discussed here. The repositioning is sought to avoid an area of instability. Council appreciates that the suggestion is to secure a stable route for the future road.

TDC's Development Engineer, Dugald Ley, has walked this route in December 2018 and again in September 2021. Based on this on-site inspection and knowledge of road development requirements, Mr Ley has provided a response to the submitter's request which is included in Appendix 5. This is summarised as:

1. A subdivision application approved in 2019 (RM185974) considered this access way and discussions with Council and the applicant resulted in an easement instrument registered against the relevant lot to manage any eventual transfer of the Right of Way (Lot 7) to legal road. The possibility of purchasing Lot 7 as road was considered at the time but any progression of this was determined to be outside of the subdivision consent process.
2. At the time of considering the subdivision consent, Mr Ley walked the road route and observed the area of instability noted by the submitter. Also noted was the steepness and existence of rock debris in the location of the indicative road sought by the submitter.
3. Figure 9 below shows the contours and an image of the area concerned.
4. Moving the indicative road into the submitter's suggested alignment area would require a potentially unstable steep cut batter slope which may mean future ongoing costs to Council.
5. The current location could result in a road being built which does not meet the current Land Development Manual 2020 standards. However, Mr Ley is satisfied that this remains an appropriate location for a future road connection.

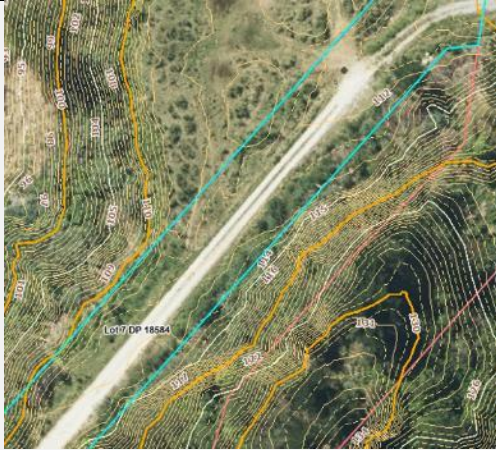


Figure 9: Left-hand image – shows slope contours in the suggested location
 Right-hand image – shows the slope above the existing vehicle track and rocks presumably from the slope above

I agree with the assessment by Mr Ley that the indicative road remains within the Lot 7 boundaries as per the notified position. The slope above the road would result in a steep and potentially unstable battered slope if the road was moved to the position suggested by the submitter. The instability noted by the submitter can be addressed on the current alignment through a non-standard road design in this location.

No changes to the notified plan change are recommended in response to the submission points above.

Recommendation

- Submission Point 4190.1 – Reject
- Submission Point 4190.2 – Accept
 - Further Submission FC73.3353.1 – Reject
 - Further Submission FC73.3353.2 – Accept

Amendments to PC73 relating to these submission points

Nil

2.3.6 Submitter [4193]: Rachele Rabbitts

Submission point 4193.1, Oppose in part: Opposition to the indicative road running through 80 Haile Lane, Pohara.

Submitter’s Reason: Building a road in this location would affect the Pohara water scheme, run along the stream with erosion and flooding issues, and across land with sink holes, tomos and unstable land. The indicative road goes through the submitter’s workshop, services and mature fruit and nut trees.

Reporting Officer Assessment and Reasons –

Submitter Rachele Rabbitts

Submission Point 4193.1

Discussion

The submitter has raised concerns regarding the placement of the existing indicative road running up Haile Lane and across their property. The submitter’s property is shown in Figure 10 below. This indicative road has existed for many years and is not proposed to be changed as part of PC73.

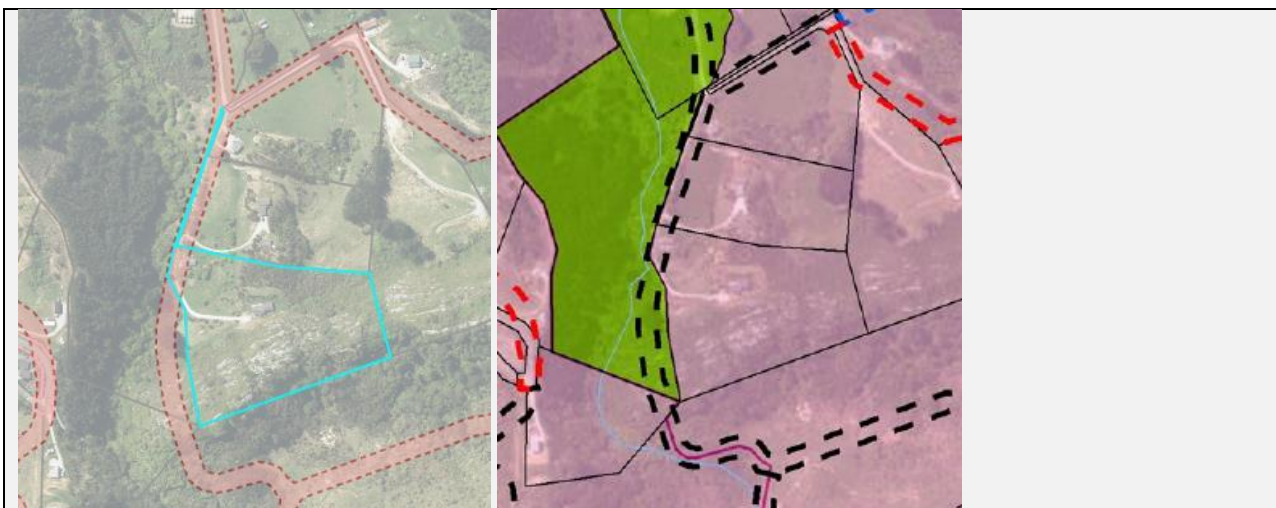


Figure 10: Left-hand image – Existing indicative road (red shading) in relation to 80 Haile Lane (blue outline)
 Right-hand image – Notified map of the same area showing no change on the submitters land

A revision of the location of the indicative road has not been included at any point in this plan change, no information is available to secure a new position and no alternative connection exists, therefore any changes made now would be out of scope of the plan change.

To provide some context, however, the submitter notes that the existing route is unsuitable for the construction of a road and runs across their workshop and fruit and nut trees. The final position of an indicative road is, by its nature, indicative and it is expected there would be some deviation to the positioning shown on the planning maps. Also, the route of indicative roads typically is only established and acquired by Council at the time when a property is developed or subdivided. Any wider consideration of the placement of indicative roads in the Pohara Valley / Ligar Bay area would need to be part of a wider planning process.

No changes to the notified plan change are recommended in response to the submission point above.

Recommendation

Submission Point 4193.1 – Reject due to not being within the scope of the plan change

Amendments to PC73 relating to this submission point

Nil

2.3.7 Submitter [4203]: Jason and Jo-Anna McKay

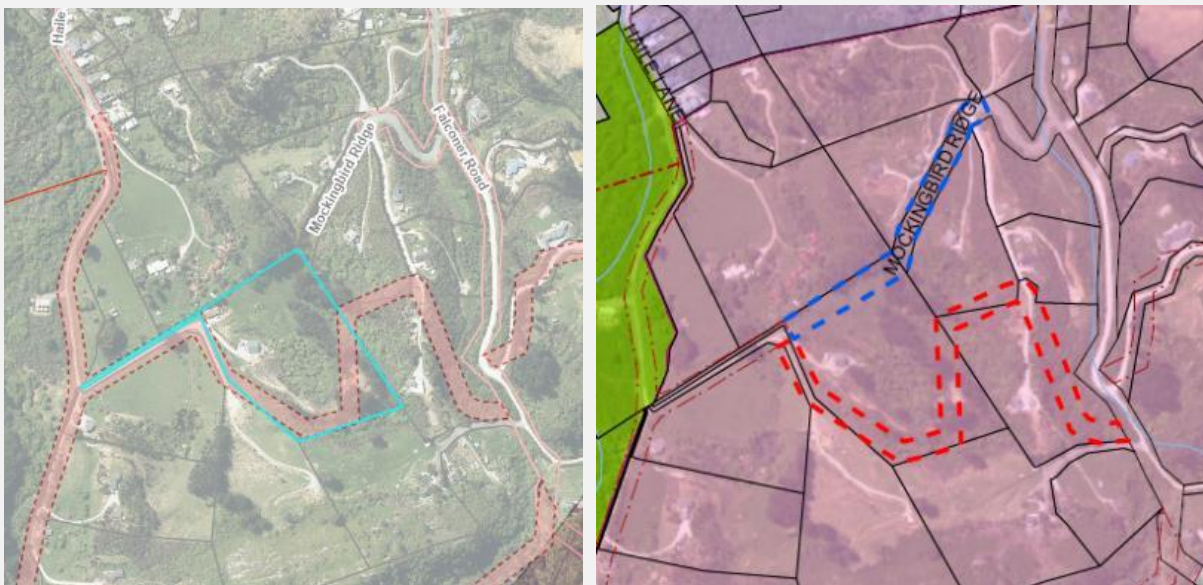
Submission point 4203.1, Oppose in part: Oppose the placement of the indicative road on their property.

Submitter’s Reason: The plan will see the road go through our shed built in 2018 with TDC consent. This proposal makes no sense to us, we have spent considerable time and money following the consent process as required. Furthermore, the road follows through the front of our property and technically shuts us down if we want to make further improvements.

**Reporting Officer Assessment and Reasons –
Submitter Jason and Jo-Anna McKay
Submission Point 4203.1**

Discussion

The submitter has raised concerns regarding the relocation of an existing indicative road running across their property at 64 Haile Lane, Pohara. The submitter's property is shown in Figure 11 below. The current position of the indicative road runs around the rear of the property and then across neighbouring properties to Falconer Road. This is proposed to be removed and replaced with an indicative road that runs across the front of the submitter's property, connecting with Mockingbird Place and then to Falconer Road. Dugald Ley, TDC's Development Engineer, has considered the roading development in this area and advises that a subdivision application RM070197 (2007) reassessed the future roads in the area and that the application was accepted by Council. This is the road to vest portion of Mockingbird Ridge which runs to the submitter's eastern boundary. Council staff also visited the Mockingbird Ridge area to view the proposed alignment on 16 September 2021.



*Figure 11: Left-hand image – submitter's property highlighted in blue and existing indicative road.
Right-hand image – proposed new alignment in blue and existing alignment in red*

The submitters are concerned about the impact on their property and the improvements they have made to it. They state that the indicative road would also limit their future use of their site.

Indicative roads are not acquired by Council until the site is subdivided, or otherwise agreed by the landowner. As a last resort, Council does have the option of using the Public Works Act. As recommended in the response to submitter 4196 (section 2.3.2 Mr Bott), the proposed 10m building setback from the indicative road would not apply to this property, enabling the landowner to use their property under the current rules that apply to the Rural Residential Zone. This includes a current boundary setback of 5m.

Mr Ley advises in his report in Appendix 5 that a road formed along this alignment would be the most cost-effective route with at least half of the route already in Council ownership for the new road link. It is also the most direct route and involves easier construction than the current alignment.

No changes to the notified plan change are recommended in response to the submission point above.

Recommendation

Submission Point 4203.1 – Reject

Amendments to PC73 relating to these submission points

Nil

2.3.8 Submitter [1046]: Alexander D Johnston

Submission point 1046.1, Oppose in part: Opposes the existing and proposed location of indicative roads at 28 Collins Road. The submitter seeks deletion and repositioning of the indicative roads within their own property and on neighbouring properties. A map is provided with the submission to indicate where these changes are sought to occur.

Further Submission FC73.4184.1 – Batton Developments Ltd (N&A Cardiff) – Oppose: The further submission seeks that the submission by AD Johnson be declined in respect of the existing indicative road positions and in respect of the new indicative road extensions shown over Batton Developments Ltd (N&A Cardiff) land.

Further Submission FC73.3417.2 – Paton Rise Limited – Oppose: The further submission seeks that the submission by AD Johnson be declined in respect of the existing indicative road positions and in respect of the new indicative road extensions shown over Batton Developments Ltd (N&A Cardiff) and Paton Rise Ltd land. The further submitter notes that these changes are outside of the scope of PC 73.

Submitter’s Reason: The indicative road placement reduces available land by some thirty percent making the economic viability of subdivision marginal. The point where the indicative road crosses halfway along the boundary is not considered to be the appropriate place as it is not the low spot for drainage purposes.

Reporting Officer Assessment and Reasons –**Submitter Alexander D Johnston****Submission Point 1046.1****Discussion**

The submitter opposes both the existing indicative roads on their property at 28 Collins Road, Richmond (shown in black in the left-hand image below) and the additional indicative road shown connecting to the property to the south west (shown by the dotted blue line in the left-hand image below). They suggest a revised arrangement as shown in the right-hand image below.



Figure 12: Notified changes (left-hand image) and submitter's preferred arrangement (right-hand image)

This submission is 'on' PC73 where it opposes the notified changes to the indicative road layout. It is beyond the PC73 scope where it seeks to introduce a new layout. Therefore, any new layout suggested in the submission cannot be considered or resolved here. What is in scope and 'on' PC73 has been determined based on the Clearwater/Machinists tests (see section 2.2.3). In this case, the submitter's proposal changes the status quo beyond that which was proposed in PC73 and there is no opportunity for the wider community, and some individual landowners, to input into this change in a meaningful way. These indicative roads were introduced to the TRMP in a public planning process that commenced through notification in 2006 and the final aspects resolved via a settled appeal to the Environment Court in 2009. Considerations of the placement of these indicative roads was within scope of that planning process.

This aspect of the submission is recommended to be rejected due to being out of scope of PC73.

Further submissions **FC73.4184.1 – Batton Developments Ltd (N&A Cardiff)** and **FC73.3417.2 – Paton Rise Limited** both oppose this submission and also note the scope issue. The further submissions are effectively accepted.

Submission point 1046.1 is within scope where it relates to the extension of the indicative road shown in blue above which connects the indicative road network to the land to the south west. TDC's Development Engineer, Dugald Ley, reviewed this submission point and confirms that development is expected to progress to the south and this connection is necessary and appropriate as it:

- a) Enhances road connections;
- b) Aligns with the existing stormwater channel from Whites Road where it connects with Reed Andrews Stream;
- c) Is located in the existing stormwater designation D247; and,
- d) Is consistent with the Nelson Tasman Land Development Manual 2019 (LDM) in that public infrastructure (in this case an existing stormwater/farm drain) should be contained within roads or public property and that roads are preferred locations for secondary stormwater flow paths.

The full response from Mr Ley is included in Appendix 5.

The submitter also notes that the indicative road placement is not in the low point of their property as they had been advised. This is correct as the low point is where the drain flows out of the property towards the state highway. The additional indicative road is, however, located at the point where the drain meets the property boundary enabling the flow of water to be accommodated.

For the reasons given above, I recommend that the proposed indicative road shown is blue (Figure 12, left-hand image) retained as notified in PC73.

Recommendation

Submission Point 1046.1 – Reject (partly due to being out of scope of PC73)

Further Submission FC73.4184.1 – Accept

Further Submission FC73.3417.2 – Accept

Amendments to PC73 relating to these submission points

Nil

2.3.9 Submitter [4184]: Batton Developments Ltd (N & A Cardiff)

Submission point 4184.1, Oppose: Reinstate the indicative road across the indicative reserve on the submitter's land.

Further Submission FC73.3417.1 – Paton Rise Ltd – Support: The indicative road positions have been subject to a long planning process and were settled through an Environment Court process in 2009. The landholding does not have a legal right of access from Paton Road and therefore a road crossing over the greenway is a necessity because of the position where Council has placed the indicative greenway reserve.

Submitter's Reason: Rules within the TRMP do not permit access from the submitter's land to Paton Road. Access must be from the indicative road network extending from Paton Rise land across the indicative reserve / greenway and a road will be required in this location for that purpose.

Reporting Officer Assessment and Reasons – Submitter Batton Developments Ltd (N & A Cardiff) Submission Point 4184.1

Discussion

The submitter has requested that the indicative road shown crossing the indicative reserve and running into the submitter's land be retained. This crosses the indicative reserve and the Council stormwater designation D247, to access the main portion of the submitter's, or subsequent owner's, property. Road access is required from this direction as the TRMP does not permit access to this property from Paton Road. This request is supported by the further submitter FC73.3417.1 – Paton Rise Ltd.

Council's Development Engineer, Dugald Ley, has considered this submission and the request to retain the indicative road. In summary, Mr Ley states that:

- 1) The indicative road appears to indicate 'permission' for a road to cross Council's designation D247 for stormwater purposes.
- 2) The designations and indicative roads were put in place through a public process over 10 years ago.

- 3) The access road in question was put in place to provide access to both the submitter's land and the future recreation and stormwater detention area (D247 and D248 – see map below). It showed the ability to cross the designation for this purpose.
- 4) The indicative road was positioned next to the reserve to give visibility to the reserve in accordance with the Crime Prevention Through Environment Design principles.
- 5) In 2017, Council investigated the proposed stormwater retention reserve further and found that it was not feasible in this location due to extremely high ground water levels, in some cases, ground water was at the surface level.
- 6) The property does not become landlocked as Council will give permission to cross the designation D247 subject to the road being of a suitable design. This can be confirmed via an agreement between Council as requiring authority responsible for the reserve – and the landowner.



Figure 13: The existing indicative road portion proposed to be removed (red dashes left-hand image); and, existing designations, indicative roads and reserves (right-hand image).

As noted by Mr Ley, the indicative road is no longer required for the purpose of accessing the indicative reserve as this reserve is no longer proposed due to the high-water table in the area. However, the indicative road also acted to signal that Council will approve an access point crossing the designation D247. Without this in place the land has no legal guarantee of access. To address this Mr Ley's report in Appendix 5 refers to an agreement that can be made between the submitter and/or landowner and the Council to ensure that the ability to cross the designation will be provided subject to suitable design of the road and crossing point. This agreement would need to take the form of an authorisation from Council as the requiring authority responsible for designation.

At the time of writing this s42a report the formal requiring authority approval has not been provided, although informal approval has been provided by email from Richard Kirby, TDC's Group Manager – Community Infrastructure. Therefore, the only current indication of the ability to legally access this property remains with the indicative road. Until such a time as another legal confirmation of the ability to access the property exists my recommendation is that the submission is accepted, and the indicative road is not removed from the TRMP as was notified.

Recommendation

Submission point 4184.1 – Accept

Further Submission FC73.3417.1 – Accept

Amendments to PC73 relating to these submission points

Amend Indicative Reserve map 'Main Road Hope' and Indicative Road map 'Collins Road' to show the short indicative road accessing 52 Paton Road, Hope, as being retained.

2.3.10 Submitter [3428]: Joanne Westbrooke

Submission point 3428.1, Oppose: Remove indicative roads from the property.

Submitter's Reason: Opposition to the incumbrances on the land title.

Reporting Officer Assessment and Reasons –

Submitter Joanne Westbrooke

Submission Point 3428.1

Discussion

The submitter seeks the removal of the indicative road from their property at 120 Wensley Road, Richmond. As PC73 only seeks to relocate an existing indicative road, deletion of the entire indicative road would be out of scope of PC73 when considered under the Clearwater/Machinist tests (see section 2.2.3).

For context PC73 proposes that the existing indicative road (curved red dashed line below) be repositioned in the location of the straight blue dashed line. This is necessary as the development pattern of the adjacent land (Campari Drive) has resulted in the formed road being in a different position than the original indicative road. The new position ensures that the desired connection is still able to be achieved in the future should the landowners, or any future landowners, decide to develop.



Figure 14: Proposed relocation of the existing indicative road

No changes to the notified plan change are recommended in response to the submission point above due to the submission being out of scope of PC73.

Recommendation

Submission Point 3428.1 - Reject due to not being within the scope of the plan change.

Amendments to PC73 relating to this submission point

Nil

2.3.11 Submitter [4183]: Nathan & Nicola Anderson

Submission point 4183.1, Oppose in part: Remove the proposed 10m building setback, particularly along the back half of the property.

Submitter's Reason: A 10m building setback would restrict use of some of the submitters land.

Submission point 4183.2, Oppose in part: Replace the indicative road extending off Jessie Street onto Aranui Road with a cul-de-sac leading into a walkway onto Aranui Road.

Submitter's Reason: A road here would have congestion, visibility and safety issues, impact on drainage of the area and result in streetlighting impacting on the property.

Reporting Officer Assessment and Reasons –

Submitter Nathan & Nicola Anderson

Submission Point 4183.1

Discussion

The submitter's property is located at 93A Aranui Road, Mapua and the existing indicative road runs from Aranui Road past their southern boundary as shown in the Figure 15 below. PC73 does not propose to alter the indicative road positioning or existence, but it does propose the addition of a rule managing building construction near to or within the indicative road. The submitter is concerned that this will impact on their ability to develop their property.

This issue was raised through the initial consultation on the plan change and was resolved through the proposed rule 17.1.3.1 (wa) (ii) which states '*no building setback is required under this condition on properties which do not have the indicative road or indicative reserve shown within that property's boundaries*'.

This rule resolves the concern expressed by the submitter with no indicative road related building setback requirements applying to their property as the indicative road is not on their land. Note that existing boundary setback rules within the Residential Zone would continue to apply as they do on any site within this zone.



Figure 15: Existing indicative road (red shading) in relation to 93A Aranui Road.

Submission Point 4183.2

The submitters second point requests that the indicative road does not connect with Aranui Road but terminates in a cul-de-sac head with a walkway connecting to Aranui Road. Any change to the existence of the indicative road in this location would be out of scope of PC73 and would require a wider plan change process with additional consultation as per the Clearwater/Machinists tests (see section 2.2.3).

In relation to this connection to Aranui Road, Council’s Transportation Manager, Jamie McPherson, attended a Mapua and Districts Community Association meeting in July 2020. He confirmed that there is an opportunity in a future planning process to consider this connection along with the wider look at the transport system in Mapua. In the meantime, this indicative road connection is to remain to secure some form of a transport connection in this location. This connection may be for cyclists and pedestrians rather than vehicles, however, that is not something that can be resolved in this current planning process.

No changes to the notified plan change are recommended in response to the submission point above due partly to the submission being out of scope of PC73.

Recommendation

Submission Point 4183.1 and 4183.2 – Reject (partly due to being out of scope of PC73).

Amendments to PC73 relating to these submission points

Nil

2.3.12 Submitter [4185]: Peter & Adrienne Black

Submission point 4185.1, Oppose in part: Remove the proposed 10m building setback.

Submitter’s Reason: A 10m building setback would restrict use of the submitter’s land and impact on privacy.

Submission point 4185.2, Oppose in part: Replace the indicative road extending off Jessie Street onto Aranui Road with a walkway.

Submitter’s Reason: A road here would have visibility and safety issues and impact on drainage of the area.

**Reporting Officer Assessment and Reasons –
Submitter Peter & Adrienne Black
Submission Point 4185.1**

Discussion

The submitter’s property is located at 93 Aranui Road, Mapua and the existing indicative road runs from Aranui Road past their southern boundary as shown in the Figure 16 below. PC73 does not propose any changes to the indicative road positioning or existence, but it does propose the addition of a rule managing building construction near to or within the indicative road. The submitter is concerned that this will impact on their ability to develop their property.

This issue was raised through the initial consultation on the plan change and was resolved through the proposed rule 17.1.3.1 (wa) (ii) which states ‘no building setback is required under this condition on properties which do not have the indicative road or indicative reserve shown within that property’s boundaries’.

This rule resolves the concern expressed by the submitter with no indicative road related building setback requirements applying to their property as the indicative road is not on their land. Note that existing boundary setback rules within the Residential Zone would continue to apply as they do on any site within this zone.



Figure 16: Existing indicative road (red shading) in relation to 93 Aranui Road.

Submission Point 4185.2

The submitter’s second point requests that the indicative road does not connect with Aranui Road but has a walkway connecting to Aranui Road instead. Any change to the existence of the indicative road in this location would be out of scope of PC73 and would require a wider plan change process with additional consultation as per the Clearwater/Machinists tests (see section 2.2.3).

In relation to this connection to Aranui Road, Council's Transportation Manager, Jamie McPherson, attended a Mapua and Districts Community Association meeting in July 2020. He confirmed that there is an opportunity in a future planning process to consider this connection along with the wider look at the transport system in Mapua. In the meantime, this indicative road connection is to remain to secure some form of a transport connection in this location. This connection may be for cyclists and pedestrians rather than vehicles, however, that is not something that can be resolved in this current planning process.

No changes to the notified plan change are recommended in response to the submission point above due partly to the submission being out of scope of PC73.

Recommendation

Submission Point 4185.1 and 4185.2 – Reject (partly due to being out of scope of PC73).

Amendments to PC73 relating to these submission points

Nil

2.3.13 Submitter [4187]: Ann and David Briggs

Submission point 4187.1, Oppose in part: The submission seeks additional consultation in determining the placement of indicative roads and seeks changes to the text in the Section 32 report.

Submitter's Reason: There is no indication of the nature and extent of the consultation that Council intends to carry out to determine the changing development patterns and preferred outcomes. Additionally, the consultation should decide whether the proposed patterns of indicative roads is safe and efficient, and whether it meets the current and foreseeable future needs for cycleways and pedestrian accessways.

Submission point 4187.2, Support in part: Retain amendments to rules in so far as they allow for changes in the position of the existing indicative roads, reserves and walkways where these are incorrect or outdated due to changes in development patterns and requirements. As implied through support for Option 1 set out in the section 32 report.

Submitter's Reason: Support for Option 1 because it is deemed to allow for changes in the position of the existing indicative roads, reserves and walkways where these are incorrect or outdated due to changes in development patterns and requirements.

Reporting Officer Assessment and Reasons –

Submitter Ann and David Briggs

Submission Point 4187.1

Discussion

The submission seeks changes to the wording of the section 32 document rather than PC73 itself. The s32 evaluation is not open to revision as it was adopted by the Council as part of its notification decision. As such, the submission point is not on the plan change amendments and not within the scope of PC73.

The submitter is primarily concerned to ensure there is suitable consultation with the community when the position of indicative roads, reserves and walkways are proposed to be amended. PC73 proposes relatively minor amendments to the alignment and existence of the indicative road network where the development pattern has meant it no longer connects with the current indicative position. Submitter 3428

'J Westbrooke' is an example of where this is proposed. More substantial changes, removals, or additions have not been proposed in PC73 to the indicative roads shown on the planning maps.

The previous plan changes that introduced the indicative roads, reserves and walkways did have opportunities for public submission and engagement. Equally, any future plan change process that may add or amend the indicative road network in the Plan would also involve opportunity for public participation process. This effectively meets the expectations of the submitter.

This submission point is recommended to be accepted in part as the intend of carrying out suitable consultation is valid, however the changes sought in the submission are not on the plan change itself and are therefore not in scope.

Submission Point 4187.2

Discussion

This submission point supports Option 1 in the Section 32 which is the option that was found to be the most appropriate and were presented in the notified plan change. As highlighted by the submitter, the section 32 currently states that any wider changes to the indicative road networks would be considered as part of the full review of the TRMP. This would involve full public consultation and formal opportunities to submit.

No changes to the notified plan change are recommended in response to the submission points above.

Recommendation

Submission Point 4187.1 – Accept in part (partly due to being out of scope of PC73).

Submission Point 4187.2 - Accept

Amendments to PC73 relating to this submission point

Nil

2.3.14 Submitter [2886]: Mapua & Districts Community Association

Submission point 2886.1, Oppose in part: Retain indicative reserve alongside Mapua Drive where large gum trees are located.

Submitter's Reason: A reserve in this position along Mapua Drive would give an alternative open space for residents on both sides of Mapua Drive. It would also allow an off-road alternative walking/cycling link directly onto Mapua Drive from the deferred Residential land and the indicative roading network to the south of the indicative reserve area. The gums on the plot have significant value in respect of carbon sequestration and it would be a shame for them to be removed to make way for houses.

Submission point 2886.2, Oppose in part: If the three parcels of indicative reserve are to be removed on the southern side of Higgs Road, and if or when these areas are opened up for residential development, that:

- (a) smaller local reserve spaces are included within the residential land development
- (b) off-road walking/cycleway links are made, not only between new and existing road networks, but also in several locations to and from the reserve areas around the coastal margins.

Submitter's Reason: Council's proposed removal of the three parcels of indicative reserve on the southern side of Higgs Road is understandable considering there is a huge parcel of land further to

the west along Higgs Road that has QEII status. However, the inclusions noted in the submission point 2886.2 are sought.

Submission point 2886.3, Oppose in part: Remove the indicative road exiting onto Aranui Road and replace with a Walkway / Cycleway only.

Submitter's Reason: It is important not to allow further roading networks to exit directly onto Aranui Road.

Submission point 2886.4, Oppose in part: Remove small indicative reserve to the west of the Catherine Road indicative road extension and add/retain a larger indicative reserve to the east next to Seaton Valley Road. Includes additional walkway requests.

Submission point 2886.5, Oppose in part: Remove the rest of the indicative road to the east of the Catherine Road indicative road extension.

Submitter's Reason: IMPLIED: A desire to see more reserves and active-transport connections instead of housing developments and roading.

Reporting Officer Assessment and Reasons – Submitter Mapua & Districts Community Association Submission Point 2886.1

Discussion

The submitter requests that the existing indicative reserve is retained alongside Mapua Drive. The request is made due to a desire to provide additional open space on either side of the road, provide walking and cycling links and for the existing gum trees to carry out carbon sequestration functions.

The proposed removal of this indicative reserve, via PC73, is shown in Figure 17. Rosalind Squire – Consultant Planner for Council's Reserves Team – has considered the submitter's request and the reasons for the proposed removal.

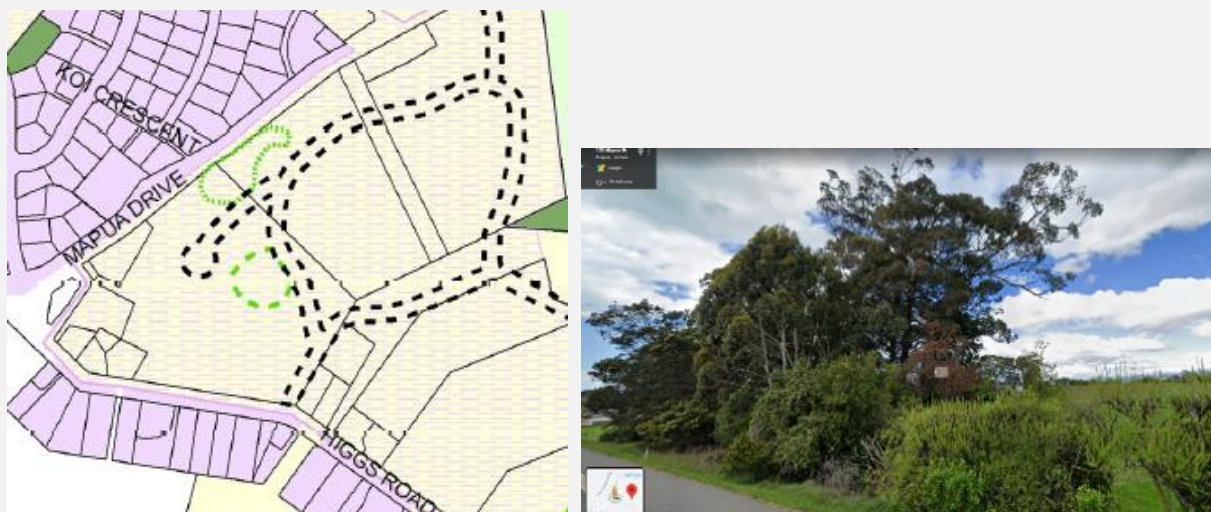


Figure 17: Mapua Drive indicative reserve removal (fine dashed green lines adjacent to Mapua Drive)

The indicative reserve is proposed to be removed as Council is currently working with the landowner to establish other reserves in the area. The proposed location of a future reserve is likely to be further down Mapua Drive as it is intended that this will also serve a stormwater detention function. The roading pattern and other walkways and reserves are also shown in Figure 18.

Recommendation

Reject the submission point as the reserve is more appropriately located elsewhere on the property. Walkway / cycleway connections are provided, and the existing gum trees are not considered desirable to retain and may cause cross boundary effects with residential development. Other more suitable specimen trees will be planted by Council within the residential development.

Submission Point 2886.2

This submission point requests that, if the indicative reserves are removed in the location of the QEII reserves to the south of Higgs Road, then smaller local reserves are established instead and off-road walking and cycling networks are established. Figure 18 shows the indicative reserves proposed to be removed as they are now QEII listed. The right-hand image shows the indicative walkways which remain unchanged by this plan change within those areas. This status retains public access to the areas as indicated by the retention of the indicative walkways in these locations. The existing indicative reserve around the esplanade remains in place.



Figure 18: Indicative reserves to be removed (left-hand image fine dashed green lines); existing indicative walkways (right hand image orange lines)

Recommendation

No changes to the notified plan change are recommended in response to the submission point above due to being out of scope of PC73. Existing indicative walkways are not part of this plan change and any removal or addition of further walkways would be out of scope.

Submission Point 2886.3

This submission point reflects the outcome sought by submitters Peter and Adrienne Black (4185) and Nathan and Nicole Anderson (4183). For the same reasons given to those submitters in section 2.3.11 and 2.3.12, no change is recommended to this indicative road connection. Any change at this stage would be out of scope of the PC73.

Submission Point 2886.4 and 2886.5

The submitter seeks the replacement of a smaller indicative reserve to the west of the Catherine Road extension with a larger indicative reserve connecting with Seaton Valley Road. This includes the removal of a portion of linking indicative road. This is shown in Figure 19 below:

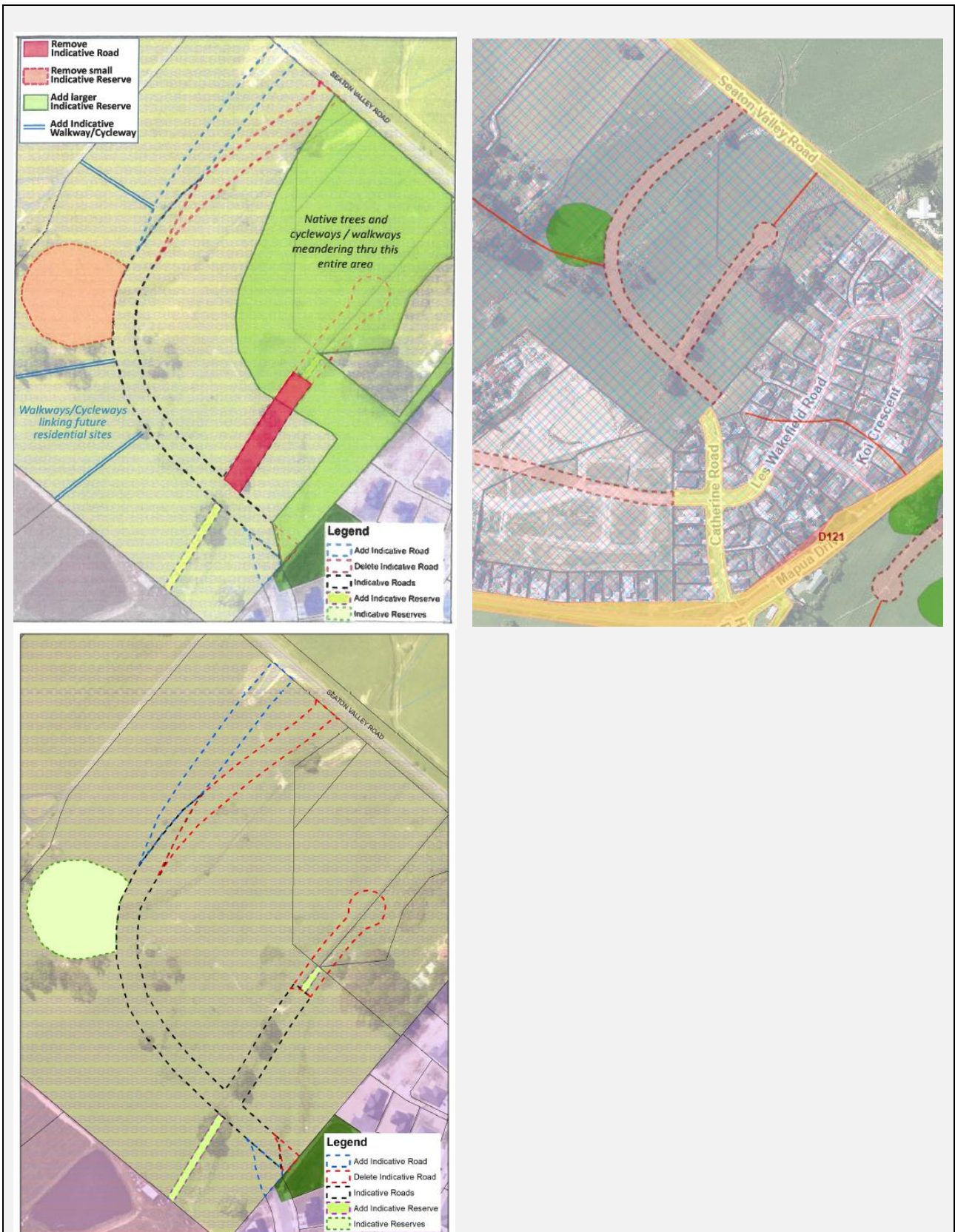


Figure 19: Indicative road and reserves arrangement sought by the submitter (top left-hand image). The right-hand image shows the existing indicative roads, reserves and walkways in the area concerned. The lower image shows the arrangement as notified.

The round-shaped indicative reserve exists in the TRMP and is not being changed as part of this plan change process. The proposal includes shortening the indicative road running off the Catherine Road indicative

extension and connecting to existing Council owned land via a reserve link which then runs down to Seaton Valley Road. In my view this largely achieves the outcomes sought by the submitter. The land from Seaton Valley Road to the road running off the Catherine Road indicative extension is already in Council ownership and is noted as having been acquired for stormwater detention purposes. As is common in the district, these areas are also used for reserves purposes and include walkways. The top - right image shows the existing indicative walkways (orange line), which when combined with the additional walkway on the right-hand image allow for a network to be established over time. I note that the indicative reserves and walkways on the planning maps are a planning tool for protecting important connections and reserves and do not indicate where every walkway or reserve will be established in the future. This is the case here where the land concerned is already owned by Council.

No changes to the notified plan change are recommended in response to the submission points above. The requests of the submitter are typically already occurring through Council existing land acquisitions negotiated with developers, through the current Council ownership of land, or are out of scope of this PC 73.

Recommendation

Submission point 2886.1 – 2886.5 – Reject (partly due to being out of scope of PC73).

Amendments to PC73 relating to these submission points

Nil

2.3.15 Submitter [4186]: Haydn Bone

Submission point 4186.1, Oppose in part: Delete the indicative reserve that crosses part of the submitter's title Lot 2 DP304288.

Submitter's Reason: The indicative reserve crosses a private Right of Way where there is no legal public access. This can create a health and safety issue due to private vehicle use on the Right of Way and is legally incorrect.

Reporting Officer Assessment and Reasons –

Submitter Haydn Bone

Submission Point 4186.1

Discussion

The submitter's property is at 126 Aranui Road, Mapua. They oppose the indicative reserve where it crosses their Right of Way. PC73 proposes to remove the indicative reserves in this area as the land indicated for reserves has been secured by Council and are either vested as reserve or in the process of being vested. This effectively resolves the submitter's request in relation to the reserve. I note that the indicative walkway shown along the creek alignment, which also crosses the Right of Way, is not being changed within the scope of this plan change.

No changes to the notified plan change are recommended in response to the submission point above.

Recommendation

Submission Point 4186.1 - Accept

Amendments to PC73 relating to this submission point

Nil

2.3.16 Submitter [923]: Beaches and Bays (Kaiteriteri) Ltd

Submission point 923.1, Support: Retain proposed amendments in 73.16 – Chapter 16.

Submission point 923.2, Support: Retain proposed amendments in 73.16 – Chapter 17.

Submission point 923.3, Support: Retain proposed amendments to the Area maps relating to indicative roads and reserves.

Submitter's Reason: General approval given and request that Council accepts the changes proposed.

Submission points 923.4 and 923.5 are discussed in section 2.5.2.

Submission points 923.6 and 923.7 are discussed in section 2.6.1.

Reporting Officer Assessment and Reasons – Submitter Beaches and Bays (Kaiteriteri) Ltd Submission Points 923.1 – 923.3

Discussion

Submission Points 923.1 – 923.3 are supportive of the proposed changes in relation to indicative roads and reserves. This includes the building setback requirement; the changes to the assessment criteria to clarify the ability to determine the final position of the indicative road; and, the changes in mapped position and existence of some indicative roads and reserves. The submitter's property is in the Talisman Heights area at Little Kaiteriteri.

I note that there is only one proposed change in PC73 which relates to indicative roads near the submitter's property. This removes a portion from the edge of the indicative road which extended onto a private lot.

Recommendation

Submission Points 923.1 – 923.3 - Accept

Amendments to PC73 relating to these submission points

Nil

2.3.17 Submitter [3757]: ASJ Property

Submission point 3757.1, Oppose in part: Retain the current status of the indicative road and associated rules on the property.

Submitter's Reason: The position of the road on the plan lacks sense and clear reasoning. As the location is not supported, the rule managing building placement is also not supported.

Reporting Officer Assessment and Reasons – Submitter ASJ Property Submission Point 3757.1

Discussion

The submitter does not support the location of the indicative road on their property (38 Courtney Street) and therefore cannot support the addition of a rule managing building placement on the property.

The existing indicative road location is shown in Figure 20 below. This is not proposed to be altered as part of this plan change process. The indicative road is shown in its current location as this runs across land which is currently zoned Residential and Rural 1 deferred Residential. It also provides access to the back of Motueka South School and the Rural 1 deferred Residential block to the north of the school. The placement was part of a public process. Any change to the location of the indicative road would be out of scope of PC73 and would require a wider plan change process with additional consultation and zoning considerations.

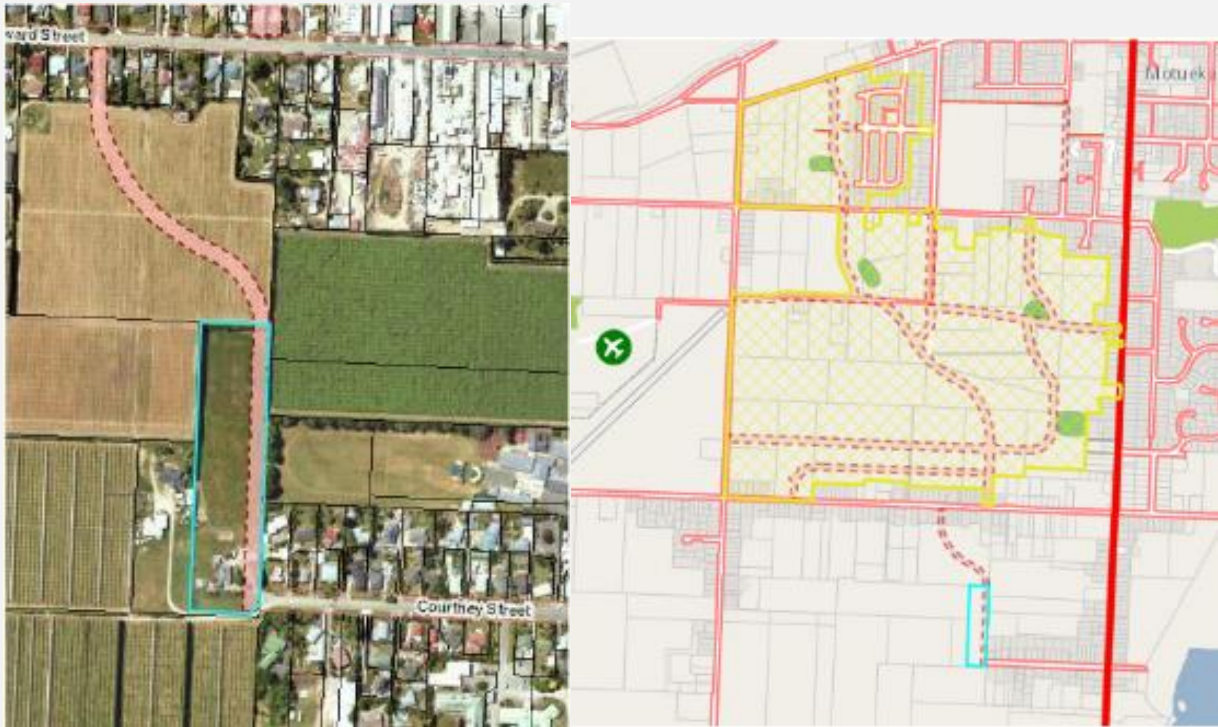


Figure 20: Existing indicative road location (left-hand image); and, indicative road location in relation to Motueka West Development area (yellow highlight in right-hand image).

The introduction of a building setback rule is proposed in PC73 to ensure that this requirement applies consistently across all areas within Motueka, and other parts of the district. The current rule (17.1.3.1) applies a building setback to the Motueka West development area (highlighted yellow in Figure 20). As the indicative road in question is outside of this area, the current building setback rule does not apply. Introducing the rule would protect the route of this indicative road from buildings being built within it, or within 10m of it without a resource consent being obtained. The setback also allows for some change in alignment to occur when developed. This approach was determined in the Section 32 report to be an appropriate method of achieving the objective of PC73 which was to improve consistency of rules across the TRMP, and to increase the level of protection of the future road connection.

No changes to the notified plan change are recommended in response to the submission point above partly due to being out of scope of PC73.

Recommendation

Submission Point 3757.1 – Reject (partly due to being out of scope of PC73).

Amendments to PC73 relating to this submission point

Nil

2.3.18 Submitter [4188]: DT King & Co Ltd

Submission point 4188.1, Oppose in part: Oppose the removal of the indicative road (551 Lower Queen Street). The submission proposes a new indicative road layout.

Further Submission FC73.4192.1 –Allan McLean – Support: Support for the submission as, if the requested changes were granted, it would at the same time satisfy the requested changes that outlined in the further submitter’s own submission (C73.4192.1) regarding the same matter.

Submitter’s Reason: Development and services have been installed on the property based on the assumption that this would be a public road and that these services would eventually carry on to further development of this area. This includes utility companies’ services. The submitter would agree with the road being removed provided that other indicative roads were also deleted, and a new indicative road ran as close as possible to the back of the property as this would service all the properties in the Rural1 deferred Light Industrial Zone on a single road.

Reporting Officer Assessment and Reasons – Submitter DT King & Co Ltd Submission Point 4188.1

Discussion

The submitter owns the property at 551 Lower Queens Street as shown in Figure 21 below. This property currently contains two indicative roads; one running across it and parallel to Lower Queen Street; and, another shown as a connection to Lower Queen Street. As shown in Figure 21 below, the portion of the indicative road connecting to Lower Queen Street is proposed to be removed.



Figure 21: Left-hand image - Existing indicative road (red shading) in relation to 551 Lower Queen Street (blue outline)
Right-hand image – portion of indicative road proposed to be removed (red and black dashes)

TDC’s Development Engineer, Dugald Ley, has provided advice on the reasons for the proposed removal. His report is attached as Appendix 5. The key points from Mr Ley’s report regarding the proposed removal are:

1. The indicative roads were added to the TRMP when the wider Richmond West area was rezoned, in the case of this property the zone is Light Industrial. This was based on climate change and sea level rise predictions at the time.

2. Recent modelling and actual storm events have shown that the property will become inundated at an accelerated rate over the coming years.
3. When development occurs, individual buildings will have to have elevated building pads and floor levels. The whole property cannot be unilaterally filled as this would impact on inundation of other properties. (I (Reuben Peterson) note that this would also apply to a raised road across the site which could effectively dam flood waters).
4. The existing indicative road and services within it would also become regularly inundated.
5. This creates a risk for Council and a cost to future rate payers.
6. The area is well served with indicative roads to the south and inland which are less susceptible to climate change and sea level rise.
7. Development of the site can still occur with raised building platforms and private Right of Ways for access from Lower Queen Street.

The proposal to remove this portion of indicative road is therefore based on sound resource management reasons of avoiding roading and servicing infrastructure being built in an identified hazard risk area. To do so could result in reduced resiliency in a major event, or due to future sea level rise. Avoiding placing new Council infrastructure in this area will also reduce the future financial burden on Council and ratepayers of increased maintenance and protection of this infrastructure.

The submitter suggests a revised indicative road layout as shown in the figure below. Mr Ley considers that this layout may have merit and does align with Council officer's thinking around the placement of an enlarged stormwater channel. Any changes of this nature have not been signalled in PC73 and are therefore out of scope of this current proposal. The changes are extensive and involve landowners that have not had a chance to be involved. Changes of this nature would have to be part of a future planning process (either a plan change, plan review or potentially a resource consent process).

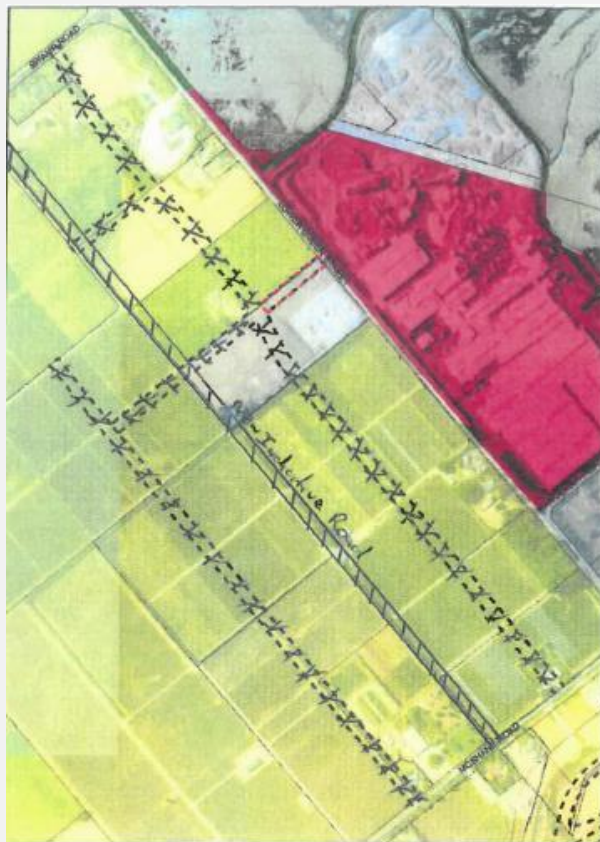


Figure 22: Revised indicative road layout suggested by the submitter.

Further Submission FC73.4192.1 –Allan McLean: Supports the submission as the request would also satisfy their own submission (4192.1) regarding the same matter. The further submitter owns the land at 563 Lower Queen Street immediately to the north of the submitter’s property.

No changes to the notified plan change are recommended in response to the submission points above - partly due to being out of scope of PC73.

Recommendation

Submission Point 4188.1 – Reject (partly due to being out of scope of PC73).
Further Submission FC73.4192.1 – Reject

Amendments to PC73 relating to this submission point

Nil

2.3.19 Submitter [4192]: Allan McLean

Submission point 4192.1, Oppose in part: retain the indicative road onto Lower Queen Street at 551/563 Lower Queen Street, or if not agreed to:

- 1) Allow for private accesses (ROW’s) or private roads off Queen Street and record as such in the TRMP under PC 73.
- 2) Relocate the lateral side road that crossed the indicative public road to the rear boundary of numbers 563 and 551 and other adjoining lands that front Lower Queen Street.

Submitter’s Reason: The submitter has planned for development of this property with the existing indicative road in its current position. The removal of the indicative road would render the development unviable, reducing the availability of industrial land.

Reporting Officer Assessment and Reasons –

Submitter Alan McLean

Submission Point 4192.1

Discussion

The submitter owns the property at 563 Lower Queen Street as shown in Figure 23 below. This property is immediately adjacent to the portion of indicative road that is subject to submission from Submitter 4188 DT King & Co Ltd and is discussed in section 2.3.18 above. The indicative road proposed to be removed is on the DT King & Co Ltd property (551 Lower Queen St) but would have serviced both properties.



Figure 23: Left-hand image – Existing indicative road (red shading) in relation to 563 Lower Queen Street (blue outline)
Right-hand image – portion of indicative road proposed to be removed (red dashes)

The same reasons given in the response to submitter 4188 DT King & Co Ltd apply to Mr McLean's submission (see section 2.3.18). For those reasons, I also recommend that this submission is rejected.

Mr McLean has also suggested through his submission that the indicative road running across his property in parallel to Lower Queen Street be moved back to the rear of the property. As noted for submitter 4188, this idea does have merit but cannot be achieved within the scope of the PC73 process.

No changes to the notified plan change are recommended in response to the submission points above - partly due to being out of scope of PC73.

Recommendation

Submission Point 4192.1 – Reject (partly due to being out of scope of PC73).

Amendments to PC73 relating to this submission point

Nil

2.3.20 Evaluation Summary

The evaluations and recommendations set out above purposefully respond to each item in turn due to the individual and property specific nature of the submissions. A number of the submitters' requests are not on PC73 and are therefore out of scope. This has been identified where relevant with reference to the tests used to determine scope which are set out in section 2.2.3. A further evaluation of changes to the building setback rules is provided under section 32AA of the RMA in Appendix 4. No further assessment is required for the recommended changes to the alignment of indicative roads and reserves as this is consistent with the section 32 evaluation.

Changes are recommended to specific indicative roads and walkways where this is within scope. Primarily, this is where an indicative road connection is not required and does not impact other properties, including that an alternative connection to the same points exists. Others achieve simple alignment changes to better reflect topography or existing development patterns.

Changes are also recommended to the building setback rules where the indicative road positions are uncertain. This recognises that the road position may vary significantly in some areas.

Overall PC73 is recommended to be approved as amended in response to the submissions set out above.

2.4 PC ref 73.22 — Relocated Buildings

2.4.1 Submitter [4189]: House Movers Section of NZ Heavy Haulage Association

Submission point 4189.1, Support: Retain provision 16.8.3.1 which provides for relocated buildings as a permitted activity.

Submitter's Reason: The Association supports the permitted activity classification of relocated buildings because:

- a) It is consistent with the Central Otago decision (*New Zealand Heavy Haulage Association Inc v The Central Otago District Council*, Environment Court, C45/2004, Thompson EJ presiding);

- b) It allows the Council to address effects on the environment to a reasonable degree through permitted activity standards, which comes at a lower cost to District Plan users and the district as a whole; and
- c) It accords with principles of sustainable management of use, development and resources under part 2 of the RMA.

Submission point 4189.2, Support in part and opposition to a specific provision: The submission seeks to delete the proposed performance standards relating to relocated dwellings at 16.8.3.1 (b) – (d) and replace with standards provided in the submission. Specific opposition to clause 16.8.3.1 (c).

Submitter’s Reason: The Association seeks stricter permitted activity standards in relation to relocated dwellings to ensure that amenity effects are adequately provided for in a quality manner and to a degree that is acceptable for residents in the district. The item 16.8.3.1 (c) relates to advising Council 48-hours prior to the relocation of the building and is opposed as the submitter considers this targets possible damage to local infrastructure which should not be controlled through the TRMP.

Submission point 4189.3 and 4189.4, Support in part: Removal and re-siting to also be provided for as permitted activities, subject to the same zone standards as in situ dwellings. Also add definitions for ‘removal’ and ‘re-siting’ in addition to the definition for ‘relocated dwelling’.

Submitter’s Reason: To ensure certainty for plan users who are seeking to remove or re-site dwellings, and to avoid the unintended application of any default rule to the above activities.

**Reporting Officer Assessment and Reasons –
Submitter House Movers Section of NZ Heavy Haulage Association
Submission Point 4189.1**

Discussion

The submitter supports the additional provisions which provide for relocated buildings as a permitted activity. This is because – in their opinion – is it consistent with a previous Central Otago court decision regarding relocated buildings, addresses the effects on the environment to a reasonable degree and accords with the principles of sustainable management of use, development and resources under Part 2 of the RMA.

For these reasons, I recommend that the submission is accepted, which consistent with the section 32 assessment.

Submission Point 4189.2

The submitter seeks to replace the proposed performance standards within PC73 section 16.8.3.1 (b) – (d). The proposed permitted activity performance standards, as notified, state:

- (b) The building must be placed on permanent foundations as soon as practicable and no later than six months of being relocated to its final destination site.
- (c) The Council is notified in writing no later than 48 hours prior to the building being relocated to its final destination site.

- (d) All external reinstatement work is completed within 12 months of the building being relocated to its final destination site.

The submitter requests that the proposed standards are replaced with those listed below. As stated by the submitter these are stricter permitted activity standards to ensure that amenity effects are adequately provided for in a quality manner and to a degree that is acceptable for residents in the district.

For a building which is, or is intended to be, used as a dwelling:

- (b) A relocated building intended for use as a dwelling must have previously been designed, built and used as a dwelling.
- (c) A report shall accompany the application for a building consent for the destination site that identifies all reinstatement work that are to be completed to the exterior of the building.
- (d) The building shall be located on permanent foundations approved by building consent, no later than 2 months from when the building is moved to the site.
- (e) All other reinstatement work required by the report referred to in (c) and the building consent to reinstate the exterior of any relocated dwelling shall be completed within 12 months of the building being delivered to the site. Without limiting (f), reinstatement work is to include connections to all infrastructure services and closing in and ventilation of the foundations.
- (f) The owner of the land on which the building is to be located must certify to the Council, before the building is relocated, that the reinstatement work will be completed within the 12-month period.

These permitted standards are a strengthening of the proposed provisions with the most significant being that the building intended to be used as a dwelling must have previously been design, built and used as a dwelling. Also, the requirement to provide a report with the building consent, identifying the external reinstatement works required is a stricter obligation. The submitter requests that the standard requiring Council to be notified of the timing of the relocation at least 48hrs before it occurs is removed.

Standard f) would likely be difficult for Council to practicably manage in terms of how and when this certification is provided, where it is recorded, and what avenues Council should take if this certification is not met. Council's compliance team considers that the obligation to meet the 12-month reinstatement period in condition (e) gives sufficient grounds for enforcement if this is required.

Permitted standard 16.8.3.1 (c) is recommended to be included as it allows Council to know when to effectively 'start the clock' in terms of the compliance with the requirement to complete external reinstatement within 12 months of the relocation occurring.

The last sentence of (e) is considered to be a matter for the building consent rather than being a planning item to be managed through the TRMP. It is recommended that this portion of the requested provision is removed.

It is recommended the submission is partly accepted with modifications to the wording which is within scope of PC73 and the submission. The recommended provisions are set out in the amendments to the plan section below and in Appendix 3.

Submission Point 4189.3/4

The submitter requests that the rule is adapted, and definitions are added, which allow for removal of a building from a site, and the re-siting of a building within the same site as a permitted activity in the same way that this plan changes proposes to allow buildings to be relocated as a permitted activity. This is a valid point and these matters can be added to the plan to ensure that no unintended application of rules is applied, or gaps created by only managing buildings which are relocated from one site to another.

It is recommended that this submission is accepted in part with the recommended wording set out in the plan amendments section below.

Recommendation

Submission point 4189.1 – 4189.4 – Accept in part with modifications to the PC73 text set out below. A further evaluation of changes to the relocated building rule is provided under section 32AA of the RMA in Appendix 4.

Amendments to PC73 relating to these submission points

Approve PC73 as amended in response to submission 4189 and set out in full in Appendix 3.

NOTE: The blue text indicates the proposed staff report recommended changes. Appendix 3 includes the full marked up text as would apply to amendments from the current operative text.

2.2 Defined Words

Relocated building – means any second-hand building which is transported whole, or in parts and relocated from its original site to its final destination site but excludes a new prefabricated building which is delivered in whole or in parts to a site, for erection on that site. **This definition includes removal of a building off a site (but excludes demolition) and shifting a building within a site.**

16.8.3.1 Permitted Activities (Relocation of Buildings)

The relocation of any building to a new site, **or the new position within a current site**, is a permitted activity, if it complies with the following conditions:

- (a) The building complies with any rules applicable to the construction or alteration of buildings at the new site **or new position within the current site**; and

For a building which is, or is intended to be, used as a dwelling:

- (b) **A relocated building intended for use as a dwelling must have previously been designed, built and used as a dwelling.**
- (c) **A report shall accompany the application for a building consent for the destination site, or new position within the current site, that identifies all reinstatement works that are to be completed to the exterior of the building.**
- (d) **The Council is notified in writing no later than 48 hours prior to the building being relocated to its destination site, or new position within the current site.**
- (e) **The building shall be located on permanent foundations approved by building consent, no later than 2 months from when the building is moved to the site.**

- (f) All other work required by the report referred to in condition (c) of this rule, to reinstate the exterior of any relocated dwelling shall be completed within 12 months of the building being delivered to the site or new position within the current site.

16.8.3.2 Discretionary Activities (Relocation of Buildings)

The relocation of a dwelling to a new site, or new position within the current site, that does not comply with the conditions of rule 16.8.3.1 is a discretionary activity. Relocated buildings, other than dwellings, that may not comply with rules applicable to the construction or alteration of buildings at the new site as per rule 16.8.3.1(a) will be considered under those specific zone rules with no particular resource consent required due to its relocated nature.

A resource consent is required and may include conditions.

16.8.20 Principal Reasons for Rules

Relocated dwellings have the potential to adversely affect the visual amenity of the area in which they are intended to be relocated. The rule addresses this by ensuring the dwelling is placed on permanent foundations and have external reinstatement completed within set time periods. The rule also requires that a building to be used as a dwelling was previously designed, built and used as a dwelling. This is to ensure that to be permitted the building already appears and functions as a dwelling which improves compatibility with the destination site or location. Relocated buildings which are not currently a dwelling but are intended to be converted for this purpose require a discretionary activity resource consent. This enables consideration of the visual appearance, appropriateness for the site and neighbourhood, and the timeframe for the conversion to occur. Other bulk and location matters are controlled through zone and area-based rules in the Plan. Relocated buildings which are not to be used as a dwelling are permitted if they meet these other rules. Other relocated buildings that may not comply with rules applicable to the construction or alteration of buildings at the new site, or new position within the current site, will be considered under those specific zone rules with no particular resource consent required due to its relocated nature.

2.5 PC ref 73.25 — Rezone existing reserve land as Open Space or Recreation

2.5.1 Submitter [783]: Philip and Rose Windle

Submission point 783.1, Oppose: Ensure that the verge of Motupipi River is not planted with any sort of vegetation, e.g. trees or shrubs.

Submitter's Reason: Leaving verges open enables flood waters from Bridger's Hollow and the town to escape faster resulting in less flood risk to the town and less silting of the submitters dairy farm.

Reporting Officer Assessment and Reasons – Submitter Philip and Rose Windle Submission Point 783.1

Discussion

The submitter requests that the verge of Motupipi River is not planted with vegetation of any sort due to the potential to impact on flooding of the area.

This submission is not within the scope of PC73 as whether planting occurs in this area is not a matter that is covered within PC73.

This submission request has been forwarded to TDC's Reserves team for their information and consideration when this river is restored ecologically and for the management of flooding.

No changes to the notified plan change are recommended in response to the submission point above due to being out of scope of PC73.

Recommendation

Submission Point 783.1 – Reject due to being out of scope of PC73.

Amendments to PC73 relating to this submission points

Nil

2.5.2 Submitter [923]: Beaches and Bays (Kaiteriteri) Ltd

Submission point 923.4, Support: Retain proposed amendments to zone maps relating to the rezoning of reserve land as Open Space or Recreation.

Submission point 923.5, Support in part: Amend plan change to also rezone Lot 51 DP536838 (vested in Council as Recreation Reserve in 2020) as Open Space Zone.

Submitter's Reason: General approval given and an additional area requested to be rezoned that has been vested in Council in conjunction with the most recently approved stages of the Torlesse Headland subdivision development.

Reporting Officer Assessment and Reasons – Submitter Beaches and Bays (Kaiteriteri) Ltd Submission Point 923.4 – 923.5

Discussion

The submitter supports the rezoning of reserve land as Open Space or Recreation zones. They also seek the addition of a further area of reserve land which has come into Council ownership as a result of subdivision that has occurred since PC73 was notified.

This additional area is shown in Figure 24 below and relates to the lineal lot 51. This lot was vested in Council as Recreation Reserve in 2020 and covers a portion of the walkway around the Torlesse Headland. The lot is currently zoned part Residential and part Rural 2.



Figure 24: Left-hand image – Lot 51 vested as Recreation Reserve
 Right-hand image – Lot 51 highlighted in blue showing Residential and Rural 2 Zones

This request to include an additional element of rezoning is consistent with many other areas within Plan Change section 73.25. The submitter requests that this area is rezoned as Open Space Zone. This change in the zoning is supported by Rosalind Squire – Consultant Planner for Reserves Team.

The neighbouring property owners have been consulted and understand how this impacts their properties. The opportunity was provided for further submissions to be made and none were received.

I recommend that Lot 51 which is now vested in Council as a reserve, be rezoned to Open Space Zone.

Recommendation

Submission Point 923.4 – 923.5 - Accept

Amendments to PC73 relating to these submission points

Rezoned Lot 51 DP 536838 from part Residential and part Rural 2 to Open Space Zone.
 Approve PC73 as amended in response to submission 923.4 / .5 and set out in Appendix 3.

2.5.3 Evaluation Summary

The evaluations and recommendations set out above purposefully respond to each item in turn due to the individual and property-specific nature of the submissions. One submitter seeks that an additional area of land that has been vested as a reserve is included within PC73. This is recommended to be allowed as the parties with an interest in this change (the neighbours) have been consulted and had the opportunity to make further submissions if desired.

No further assessment is required for the recommended changes to zoning of this property subject to the Beaches and Bays (Kaiteriteri) Ltd submission as the change is consistent with other changes of the same nature across the district and this is already adequately covered in the section 32 evaluation.

The only other submission raises a matter which is not within the scope of this plan change. This matter has been referred to the relevant Council staff for consideration.
 Overall PC73 is recommended to be approved as amended in response to the submissions set out above.

2.6 PC ref 73.26 / 73.28 — Specific Area Provisions

2.6.1 Submitter [923]: Beaches and Bays (Kaiteriteri) Ltd

Submission point 923.6, Support: Retain amendments to condition (q) relating to site-specific provisions at Talisman Heights, Little Kaiteriteri, particularly the clarification that the rule applies only to vegetation within the Coastal Environment Area.

Submission point 923.7, Support: Retain amendments to 17.1.2.1(a) (vii) and 17.1.3.1(u)(i).

Submitter's Reason: General approval given.

Reporting Officer Assessment and Reasons – Submitter Beaches and Bays (Kaiteriteri) Ltd Submission Point 923.6 – 923.7

Discussion

The submitter supports the changes to the site-specific provisions at Talisman Heights, Little Kaiteriteri with specific reference to the clarification around the vegetation protection rule applying to the Coastal Environment Area.

No changes to the notified plan change are recommended in response to the submission point above.

Recommendation

Submission Point 923.6 – 923.7 - Accept

Amendments to PC73 relating to these submission points

Nil

2.6.2 Submitter [4191]: Neil and Sue McCliskie

Submission point 4191.1, Oppose in part.

Either:

- (i) Delete the site-specific rules noted in Plan Change 73.28 and delete the closed status of the Rural 1 Zone around the enclave and have the land revert to Rural 1 zoning;

And:

- (ii) Provide a commitment to rezoning the land to a Rural Residential Zone as part of the review of the TRMP;

Or:

- (iii) Delete the site-specific rules in Plan Change 73.28 and rezone this location of Golden Hills Road to Rural Residential.

Further Submission FC73.4204.1 – Jeff and Sophie Marr – Support: Fully supportive of the original submission for similar reasons as given below and in more detail in the further submission.

Submitter's Reason: The submitters view is that given the quality of the land, the established lifestyle nature of this enclave or land, that the land should be zoned for the predominant purpose in this location which is a lifestyle purpose, i.e. the land should be zoned Rural Residential.

The submitters are concerned that the Council is proposing to remove specific rules from the TRMP which acknowledges the subject lands history and effectively records the Council's agreement to the enclave being developed for Rural Residential purposes, notwithstanding the zoning Council chose to place over this land, which was a Rural 1 Closed Zone.

**Reporting Officer Assessment and Reasons –
Submitter Neil and Sue McCliskie
Submission Point 4191.1**

Discussion

The submitter seeks that the site-specific rules which apply to the closed zone in which their property is situated are deleted and that the closed zone status is removed so it reverts to Rural 1 Zone. In addition, that Council commits to rezoning the land to Rural Residential in the process of reviewing the TRMP.

An alternative is sought where the area is rezoned as Rural Residential Zone as part of this current planning process. These outcomes are supported by Jeff and Sophie Marr through their further submission.

The submitters property is highlighted in blue below and the further submitters property is immediately to the south of this within the closed zone area (shown by the yellow hatching).



Figure 25: Golden Hills Rural 1 closed zone, submitter property highlighted in blue.

The submitter considers that removing the specific rules relating to the original purpose of the Closed Zone effectively removes the 'history' of these provisions from the plan. They consider that retaining the closed zone status (which prohibits all subdivision aside from boundary adjustments) now serves no resource management purpose.

The changes sought by the submitter have been considered against the Clearwater/Machinists test (as outlined in section 2.2.3) and I find the following:

- 1) Does submission and change sought address the extent to which the plan change would alter the pre-existing status quo? PC73 has not sought to change the pre-existing status quo in terms of the zoning of the land. The Omnibus Plan Change has been clear in that it is only changing site-specific rules which are now redundant due to the original properties being subdivided in accordance with those rules. As the submitter seeks a change to the zoning this not considered be 'on' PC73. Any change in zoning has not been assessed in any way and has not been signalled in any of the consultation with property owners within the zone concerned, or those adjacent landowners.
- 2) Does the relief sought in the submission permit an appreciable amendment to a planning instrument without real opportunity for participation by those potentially affected? As noted above the plan change has not signalled any change to the zoning of the area and therefore no property owners within the zone, or those adjacent to it have had the opportunity to consider the implications of this change.

The changes sought by the submitter are considered to be out of scope of PC73 and are more appropriately considered during the current review of the resource management plan. This section 42a report makes no findings or recommendations on the appropriateness of the changes requested by the submitter.

No changes to the notified plan change are recommended in response to the submission point above due to being out of scope of PC73.

Recommendation

Submission point 4191.1 – Reject due to being out of scope of PC73.
Further Submission FC73.4204.1 - Reject

Amendments to PC73 relating to this submission point

Nil

2.6.3 Evaluation Summary

The evaluations and recommendations set out above purposefully respond to each item in turn due to the individual and property specific nature of the submissions. In the case of one submitter the changes sought are beyond the scope PC73 and cannot be addressed here.

The only other submission within this topic supports the changes and is recommended to be accepted.

Overall PC73 is recommended to be approved as amended in response to the submissions set out above.

3 Appendix 1: Schedule of Amendments on Proposed Plan Change

Under separate cover

4 Appendix 2: Submissions:

- **2A: Original Submissions**
- **2B: Further Submissions**

Under separate cover

5 Appendix 3: Schedule of Amendments from Staff Report Recommendations

Under separate cover

6 Appendix 4: Section 32AA Assessment

Section 32AA Statutory Requirements

Section 32AA requires a further evaluation for any changes that have been made to the proposal since the evaluation report was completed.

(1) A further evaluation required under this Act—

- a. is required only for any changes that have been made to, or are proposed for, the proposal since the evaluation report for the proposal was completed (the changes); and*
- b. must be undertaken in accordance with section 32(1) to (4); and*
- c. must, despite paragraph (b) and section 32(1)(c), be undertaken at a level of detail that corresponds to the scale and significance of the changes; and*
- d. must—*
 - i. be published in an evaluation report that is made available for public inspection at the same time as the approved proposal (in the case of a national policy statement or a New Zealand coastal policy statement or a national planning standard), or the decision on the proposal, is notified; or*
 - ii. be referred to in the decision-making record in sufficient detail to demonstrate that the further evaluation was undertaken in accordance with this section.*

(2) To avoid doubt, an evaluation report does not have to be prepared if a further evaluation is undertaken in accordance with subsection (1)(d)(ii).

(3) In this section, proposal means a proposed statement, national planning standard, plan, or change for which a further evaluation must be undertaken under this Act.

The s32AA evaluation is to be undertaken at a scale and degree that is commensurate with the anticipated effects of the amendments. The amendments to the Plan Change 73 provisions made since the s32 evaluation are refinements to the provisions in response to the points raised by submitters. They do not challenge the structure or intent of the TRMP. The scale and degree of the assessment below reflects the 'refinement' amendments against the Section 32AA considerations.

Plan Change Topic 73.16 — Protection of indicative road and reserves and updating positioning and existence

Submission 3353.5 Port Tarkohe Limited (s42a section 2.3.4) and Submission 4196.1 Te Ngahere Koura Ltd, DRB Trust (David and Nadine Bott) Kelso Building Ltd (s42a section 2.3.2)

Section 32AA Assessment

The proposed Plan Change 73 Section 32 evaluation found that the most appropriate method for protecting the future route of indicative roads or placement of indicative reserves was to apply existing building setback rules consistently across the district wherever indicative roads and reserves exist. This was identified as Option 1 within the Section 32 evaluation.

Due to submissions and further consultation this has been demonstrated by the submitters identified above as not being appropriate in all cases. This assessment is to meet the requirements of Section 32AA of the RMA to carry out further evaluation for any changes that are to be made to the provisions since they were

previously evaluated. In particular this evaluation is carried out in accordance with Section 32AA (d) (ii) as part of the decision-making record.

This Section 32AA evaluation builds on the original Section 32 content and structure.

Description of Changes:

In response to points raised by submitters 3353 and 4196, the need to apply the building setback rule to all indicative roads and reserves across the district has been re-evaluated. The basis for the change sought related to the degree of uncertainty in the location of indicative roads in the Pohara / Port Tarakohe area. The recommended change in relation to submissions is to exclude the indicative roads in the area to the west of Falconer Road in the Pohara area from building setback requirement.

The specific changes to building setback rules apply to rule 17.1.3.1 (wa) '*Permitted Activities (Building Construction or Alteration – Standard Density Development*' and 17.1.20 '*Principal Reasons for Rules*' in the Residential Zone and the corresponding rules in other zones.

The specific recommended changes are included within Appendix 3 of this Section 42a report.

Effectiveness and Efficiency:

This recommended amendment improves the effectiveness and efficiency of the original option. Refining the areas to which the building setback applies provides greater flexibility for use of the land on which the indicative roads pass and reduces the need for resource consent applications in those areas. In particular effectiveness and efficiency is improved by:

- a) Recognising that the final route of indicative roads in the area to the west of Falconer Road in Pohara is uncertain. Until these final routes are known it is not justifiable to restrict building placement on the sites concerned.
- b) Removing the need for resource consents for buildings which may be located within, or near the route of the indicative roads on the property concerned.
- c) Confirms a distinction between indicative road routes which have a greater degree of certainty and those which retain a degree of uncertainty.

Options and Appropriateness in Achieving the Objective of the Plan Change:

The range of options considered are set out in the Section 32 evaluation. This recommended amendment is a refinement of Option 1 within the Section 32 evaluation.

The objective of the recommended option is to improve the consistency of rules across the TRMP, and to increase the level of protection of the future road connections and of reserve networks. The recommendation within this s42a report still achieves this objective while also recognising where the degree of uncertainty in the road placement is too great to follow the standard approach to building placement.

The recommended amendment to the approach is therefore considered to be the most appropriate way to achieve the objective of the plan change.

Costs and Benefits associated with implementing the provisions:

The recommended amendment achieves the benefits set out in the Section 32 evaluation while reducing some of the identified costs. In summary the relevant benefits and costs are:

- a) Increased consistency of rule application across the region in relation to indicative roads and reserves,
- b) Increases future resiliency and integration of the roading and reserves network,
- c) Improves the application of rules and reduces the potential to trigger unnecessary resource consents,
- d) Reduces the limitation on placement of buildings on properties to the west of Falconer Road,
- e) Reduces the need for resource consents for buildings in locations to the west of Falconer Road

Risk of Acting or Not Acting Based on Adequacy of Information:

The information obtained during the submission and further submission period, including subsequent discussions with the submitters has increased the available information relating to building setback requirements. In particular this applies to the Pohara / Port Tarkohe / Ligar Bay area. In addition, a further review was undertaken of the degree of certainty of indicative road positions in other parts of the district. This review found that the other indicative road locations had a degree of certainty that warranted the 10m building setback rule. Overall the level of risk of acting based on the information obtained is suitable for the recommended approach.

Opportunities for economic growth and employment:

The recommended amendment does not have an impact on economic growth and employment. This was the same conclusion reached in the section 32 evaluation as the indicative road and reserve networks already exists and their provision features in the subdivision process.

Plan Change Topic 73.22 — Relocated Buildings

Submission 4189.1 House Movers Section of NZ Heavy haulage Association (s42a section 2.4.1)

Section 32AA Assessment

The proposed Plan Change 73 sought to provide for relocated buildings, and in particular dwellings as a permitted activity. The Section 32 evaluation found that the most appropriate option to enable relocated buildings was a standalone rule with permitted activity status provided specified standards were met. This was identified as Option 2 within the Section 32 evaluation.

The submitter supported this but sought that the permitted activity standards were amended. This assessment is to meet the requirements of Section 32AA of the RMA to carry out further evaluation for any changes that are to be made to the provisions since they were previously evaluated. In particular, this evaluation is carried out in accordance with Section 32AA (d) (ii) as part of the decision-making record.

This Section 32AA evaluation builds on the original Section 32 content and structure.

Description of Changes:

In response to points raised by submitter 4189.1 House Movers Section of NZ Heavy haulage Association, the permitted activity standards for the rule are recommended to be changed to stricter standards. This is to accord with the principles of sustainable management of use, development and resources under part 2 of the RMA. It also reflects the Environment Court decisions in *New Zealand Heavy Haulage Association Inc v The Central Otago District Council* (Environment Court, C45/2004, Thompson EJ presiding) case.

The specific recommended changes are included within Appendix 3 of this Section 42a report.

Effectiveness and Efficiency:

The recommended amendment retains the approach of the Plan Change where relocated buildings are to be a permitted activity and specific permitted standards are provided. The effectiveness and efficiency of this approach is improved by the recommended changes from the provisions as notified. In particular this is due to:

- a) Clarification within the definition and rule that the permitted activity status also applies to buildings relocated within a site, or to buildings removed from a site.
- b) The standards requiring that relocated buildings intended to be used as a dwelling have previously been used for this purpose.
- c) A report being required identifying the external reinstatement works that are required.
- d) A shortening of the time period before a dwelling has to be placed on permanent foundations, and
- e) Retention of the requirement to advise Council of the relocation prior to it occurring.

Options and Appropriateness in Achieving the Objective of the Plan Change:

The range of options considered are set out in the Section 32 evaluation. This recommended amendment is a refinement of Option 2 within the Section 32 evaluation.

The objective of the recommended option is to remove unnecessary consenting requirements for relocated dwellings within the district, while maintaining a level of control over the amenity outcomes of dwelling relocation. The recommendation within this s42a report still achieves this objective and increases the level of control and therefore allows better amenity outcomes to be achieved.

The recommended amendment to the approach is therefore considered to be the most appropriate way to achieve the objective of the plan change.

Costs and Benefits associated with implementing the provisions:

The recommended amendment achieves the benefits set out in the Section 32 evaluation while reducing the key identified cost. In summary the relevant benefits and costs are:

- a) The proposed rule remains an enabling rule for building (and in particular, dwelling) relocation,
- b) Relocated dwellings are managed the same as new buildings aside from the requirements of the permitted activity standards,
- c) Increase housing choice and flexibility resulting in more affordable option and a reduction in regulatory steps managing the reuse of existing building stock,
- d) The cost of a reduction in Council control is reduced as the recommended changes to the permitted standards increase Council's control from the notified provisions.

Risk of Acting or Not Acting Based on Adequacy of Information:

The information obtained from the submission, including further discussions with the Council staff in the resource and building consents department has improved the available information. Overall the level of risk of acting based on the information obtained is suitable for the recommended approach.

Opportunities for economic growth and employment:

The recommended amendment does not have an impact on economic growth and employment beyond that specified in the Section 32 report. Any increase in the relocation industry through this reduction in regulation would still remain with the recommended amendments in place.

7 Appendix 5: Tasman District Council Development Engineer Assessment

Under separate cover